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

FORM 8-K

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

Date of Report (Date of earliest event reported): March 31, 2022

EMBECTA CORP.
(Exact name of registrant as specified in its charter)

Delaware		
(State or Other Jurisdiction of Incorporation)		
001-41186		**87-1583942**
(Commission File Number)		**(IRS Employer Identification No.)**
300 Kimball Drive, Parsippany, New Jersey		**07054**
(Address of principal executive offices)		**(Zip Code)**

Registrant's telephone number, including area code: (201) 847-6880

N/A
(Former name or former address, if changed since last report)

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

☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Title of each class	Trading symbol(s)	Name of each exchange on which registered
Common Stock, par value $0.01 per share	**EMBC**	**The Nasdaq Stock Market LLC (Nasdaq Global Select Market)**

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (17 CFR §230.405) or Rule 12b-2 of the Securities Exchange Act of 1934 (17 CFR §240.12b-2).

Emerging growth company ☐

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

Item 1.01. Entry into a Material Definitive Agreement.

Separation-Related Agreements

On April 1, 2022, Embecta Corp. ("Embecta") entered into several agreements with Becton, Dickinson and Company ("BD") in connection with the separation of BD's diabetes care business (the "Separation") through the distribution of 100% of the outstanding shares of common stock, par value $0.01 per share, of Embecta to BD's stockholders of record as of the close of business on March 22, 2022 (the "Distribution"). The Distribution was effective at 12:01 a.m., Eastern Time, on April 1, 2022 (the "Effective Time"). As a result of the Distribution, Embecta is now an independent public company and its common stock is listed under the symbol "EMBC" on the Nasdaq Global Select Market.

The agreements between Embecta and BD govern the relationship of the parties following the Separation and the Distribution, and include the following:

- Separation and Distribution Agreement;
- Transition Services Agreement;
- Tax Matters Agreement;
- Employee Matters Agreement;
- Intellectual Property Matters Agreement;
- Contract Manufacturing Agreements;
- Cannula Supply Agreement;
- Lease Agreement for Holdrege, Nebraska;
- Logistics Services Agreement; and
- Distribution Agreements.

A summary of certain material terms of the agreements can be found in the section entitled "Certain Relationships and Related Party Transactions — Agreements with BD" in Embecta's Information Statement dated February 11, 2022 (the "Information Statement"), which was included as Exhibit 99.1 to Embecta's Current Report on 8-K filed with the Securities and Exchange Commission on February 11, 2022. This summary is incorporated by reference into this Item 1.01.

The foregoing summary of the separation-related agreements is qualified in its entirety by reference to the Separation and Distribution Agreement, Transition Services Agreement, Tax Matters Agreement, Employee Matters

Agreement, Intellectual Property Matters Agreement, Contract Manufacturing Agreements, Cannula Supply Agreement, Lease Agreement, Logistics Services Agreement and Distribution Agreements, which are included with this report as Exhibits 2.1, 10.1, 10.2, 10.3, 10.4, 10.5, 10.6, 10.7, 10.8 and 10.9, respectively, and each of which is incorporated herein by reference.

Debt Arrangements

Credit Agreement

On March 31, 2022, Embecta entered into a credit agreement (the "Credit Agreement"), as borrower, with the lenders and other parties from time to time party thereto and Morgan Stanley Senior Funding, Inc., as administrative agent, collateral agent and an L/C issuer, which provides for (a) a $500.0 million revolving credit facility (the "Revolving Credit Facility") and (b) a $950.0 million term loan B facility (the "Term Facility").

The proceeds under the Revolving Credit Facility may be used for working capital and other general corporate purposes, including the financing of restricted payments, permitted acquisitions and other permitted investments, and for any other purpose not prohibited by the Credit Agreement. The borrowings under the Term Facility were used to fund, in part, a special payment to BD in connection with the Distribution, to pay fees and expenses related to the Separation, Distribution and related transactions and for general corporate purposes. The Revolving Credit Facility will mature on the date that is five years after the closing date thereof, and the Term Facility will mature on the date that is seven years after the closing date thereof.

Borrowings under the Revolving Credit Facility bear interest, at Embecta's option, initially at an annual rate equal to (a) in the case of loans denominated in U.S, Dollars (i) the adjusted secured overnight financing rate ("SOFR") or (ii) the alternate base rate or (b) in the case of loans denominated in Euros, the EURIBOR rate, in each case plus an applicable margin specified in the Credit Agreement. Borrowings under the Term Facility bear interest, at Embecta's option, initially at an annual rate equal to (a) adjusted SOFR or (b) the alternate base rate, in each case plus an applicable margin specified in the Credit Agreement.

Prior to the Distribution, Embecta's obligations under the Credit Agreement were guaranteed by BD on an unsecured, unsubordinated basis. From and after the completion of the Distribution, Embecta's obligations are guaranteed by Embecta's existing and subsequently acquired wholly owned domestic subsidiaries, subject to certain exceptions, and are secured by a first priority lien on substantially all of the assets of Embecta and the subsidiary guarantors, subject to permitted liens and certain other exceptions. Upon the completion of the Distribution, BD was released from all obligations under the Credit Agreement.

Embecta is permitted to make voluntary prepayments of loans under the Credit Agreement at any time without payment of a premium or penalty, subject to certain exceptions, and Embecta is required to make certain mandatory prepayments of outstanding indebtedness under the Credit Agreement in certain circumstances. Loans under the Term Facility amortize in quarterly installments equal to 0.25% of the initial principal amount thereof, with the remaining balance payable on the maturity date thereof.

The Credit Agreement contains customary affirmative and negative covenants, including, among others, covenants relating to delivery of financial and other information; compliance with laws; maintenance of property, existence, insurance, books and records and public ratings; use of proceeds; inspection rights; obligation to provide collateral for newly acquired property and guarantees by certain new subsidiaries; and limitations with respect to indebtedness, liens, acquisitions and other investments, fundamental changes, restrictive agreements, dividends and redemptions or repurchases of stock, prepayments of certain subordinated indebtedness, dispositions of assets and transactions with affiliates, in each case subject to certain exceptions. In addition, the Credit Agreement requires that Embecta maintain a first lien net leverage ratio not to exceed 4.75 to 1.00, measured as of the last day of each fiscal quarter beginning with the first full fiscal quarter after the closing of the Credit Agreement.

The Credit Agreement also contains customary events of default, including, among others, material breach of representations and warranties, failure to make required payments, failure to comply with certain agreements or covenants, failure to pay or default under certain other indebtedness in excess of a threshold amount, and certain events of bankruptcy and insolvency.

The foregoing summary of the Credit Agreement is qualified in its entirety by reference to the Credit Agreement, which is included with this report as Exhibit 10.10 and is incorporated herein by reference.

6.750% Senior Secured Notes due 2030

On March 31, 2022, Embecta entered into an Indenture (as supplemented by the First Supplemental Indenture, dated April 1, 2022 (the "Supplemental Indenture"), the "Indenture"), by and between Embecta and U.S. Bank Trust Company, National Association, as trustee and as notes collateral agent, pursuant to which Embecta issued $200.0 million of 6.750% senior secured notes due 2030 (the "6.750% Notes"). The 6.750% Notes were issued by Embecta to BD as part of the consideration for assets transferred by BD to Embecta in connection with the Separation. BD then transferred the 6.750% Notes to Morgan Stanley & Co. LLC ("Morgan Stanley") in exchange for certain notes of BD that were purchased by Morgan Stanley pursuant to a tender offer. Morgan Stanley then sold the 6.750% Notes to qualified institutional buyers in the United States pursuant to Rule 144A under the Securities Act of 1933, as amended (the "Securities Act").

The 6.750% Notes will mature on February 15, 2030. The 6.750% Notes bear interest at a rate of 6.750% per annum, with interest payable, in cash, semi-annually in arrears on February 15 and August 15 of each year, commencing on August 15, 2022.

The 6.750% Notes are not redeemable until after February 15, 2027, subject to certain limited exceptions. After February 15, 2027, the 6.750% Notes will be redeemable at Embecta's option in a customary manner and at the prices set forth therein.

Prior to the completion of the Distribution, the 6.750% Notes were unsecured, unsubordinated obligations of Embecta and guaranteed on an unsecured, unsubordinated basis solely by BD, which guarantee was automatically and unconditionally terminated and released upon the completion of the Distribution. From and after the completion of the Distribution, the 6.750% Notes are, jointly and severally, guaranteed by certain of Embecta's existing and future direct or indirect wholly owned domestic restricted subsidiaries (subject to certain exceptions).

From and after the completion of the Distribution, the 6.750% Notes and related guarantees are secured by a first priority lien on substantially all of the assets of Embecta and its subsidiary guarantors (subject to permitted liens and certain other exceptions), equally and ratably with all existing and future first lien obligations of Embecta and the subsidiary guarantors.

The 6.750% Notes contain customary affirmative and negative covenants, including among others, limitations on the incurrence of indebtedness, restricted payments, liens, restrictions on distributions from subsidiaries, sales of assets and subsidiary stock, affiliate transactions and certain mergers and consolidations.

The 6.750% Notes are subject to customary events of default for financings of this type, including, among others, non-payment of principal, interest or premium, failure to comply with certain covenants and certain bankruptcy or insolvency events.

The Indenture, Supplemental Indenture and form of 6.750% Note are attached as Exhibits 4.1, 4.2 and 4.3, respectively, to this Current Report on Form 8-K and are incorporated herein by reference. The foregoing descriptions of the Indenture, Supplemental Indenture and form of 6.750% Note are qualified in their entirety by reference to the full text of such documents.

Supplemental Indenture

On April 1, 2022, Embecta and certain subsidiary guarantors party thereto entered into a supplemental indenture (the "5.000% Notes Supplemental Indenture") to that certain Indenture, dated as of February 10, 2022 (the "5.000% Notes Indenture"), by and between Embecta Corp. and U.S. Trust Company, National Association, as trustee and as notes collateral agent. Pursuant to the terms of the 5.000% Notes Supplemental Indenture, the

subsidiaries of Embecta parties thereto became guarantors of Embecta's 5.000% Senior Secured Notes due 2030, as required by the 5.000% Notes Indenture. The 5.000% Supplemental Indenture is attached as Exhibit 4.4 to this Current Report on Form 8-K and is incorporated herein by reference.

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 under the heading "Debt Arrangements" in Item 1.01 of this Current Report on Form 8-K is incorporated herein by reference.

Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers

Appointment of Officers

In connection with the Distribution, as of the Effective Time, the following individuals became executive officers of Embecta as set forth in the table below:

Devdatt Kurdikar	President and Chief Executive Officer
Jacob Elguicze	Senior Vice President and Chief Financial Officer
Brian Capone	Vice President, Chief Accounting Officer and Corporate Controller
Shaun Curtis	Senior Vice President, Global Manufacturing and Supply Chain
Ajay Kumar	Senior Vice President and Chief Human Resources Officer
Jeff Mann	Senior Vice President, General Counsel, Head of Corporate Development, and Corporate Secretary

Biographical information for Embecta's executive officers can be found in the Information Statement under the section entitled "Management." Compensation information for Embecta's named executive officers can be found in the Information Statement under the section entitled "Compensation Discussion and Analysis." These sections are incorporated by reference into this Item 5.02.

Resignation and Appointment of Directors

On March 20, 2022, the Board of Directors of Embecta (the "Board") expanded its size from three directors to four directors. Robert J. Hombach was appointed as a director of Embecta on March 20, 2022. On March 31, 2022, the Board further expanded its size from four directors to nine directors, effective immediately prior to the Effective Time. Each of Devdatt Kurdikar, David F. Melcher, David J. Albritton, Carrie L. Anderson, Robert J. Hombach, Milton M. Morris, Claire Pomeroy, Karen N. Prange and Christopher R. Reidy was appointed as a director of Embecta as of immediately prior to the Effective Time, and Gary DeFazio, Joseph LaSala and Stephanie Kelly, who had been serving as members of the Board as of immediately prior to the Effective Time, ceased to be directors of Embecta. Robert J. Hombach remained on the Board as of immediately following the Distribution.

Biographical and compensation information for each of the directors can be found in the Information Statement under the section entitled "Directors—Board of Directors Following the Distribution" and "Director Compensation," which are incorporated by reference into this Item 5.02.

As of immediately prior to the Effective Time:

- Karen N. Prange and Carrie L. Anderson were appointed to serve as members of the Audit committee of the Board. Mr. Hombach had already been appointed to serve as a member and chair of the Audit Committee of the Board and will continue to serve in that capacity;
- Claire Pomeroy was appointed to serve as a member and chair of the Corporate Governance and Nominating Committee. Carrie L. Anderson and David J. Albritton were appointed to serve as members of the Corporate Governance and Nominating Committee;
- Karen N. Prange, was appointed to serve as a member and chair of the Compensation and Management Development Committee. Robert J. Hombach and Milton M. Morris were appointed to serve as members of the Compensation and Management Development Committee;
- Christopher R. Reidy, was appointed to serve as a member and chair of the Technology Committee. Claire Pomeroy, David J. Albritton and Milton M. Morris were appointed to serve as members of the Technology Committee; and
- David F. Melcher was appointed non-executive Chairman of the Board.

Adoption of Governance Guidelines and Code of Conduct

In connection with the Separation and Distribution, on February 2, 2022, the Board adopted or approved (and as applicable, shareholder approval was obtained for) the following governance charters:

- Audit Committee Charter
- Compensation and Management Development Committee Charter
- Corporate Governance and Nominating Committee Charter
- Technology Committee Charter

A summary of certain material features of these arrangements can be found in the section entitled “Directors—Committees of the Board of Directors” in the Information Statement, which summaries are incorporated by reference into this Item 5.02. This description is qualified in its entirety by reference to the full text of the Audit Committee Charter, Compensation and Management Development Committee Charter, Corporate Governance and Nominating Committee Charter and Technology Committee Charter, which are attached hereto as Exhibits 10.11, 10.12, 10.13, and 10.14 and are incorporated herein by reference.

Adoption of Compensation Plans

In connection with the Separation and the Distribution, Embecta adopted the following compensation plans effective as of the Effective Time. Embecta’s named executive officers are or may become eligible to participate in these compensation plans.

- Embecta 2022 Employee and Director Equity Based Compensation Plan;
- Embecta Corp. Executive Severance and Change in Control Plan; and
- Embecta Deferred Compensation Plan.

Summaries of certain material features of these plans can be found in the sections entitled “Compensation Discussion and Analysis,” “Compensation of Named Executive Officers” and “Embecta 2022 Employee and Director Equity Based Compensation Plan” in the Information Statement, which summaries are incorporated herein by reference. The foregoing descriptions of these plans set forth under this Item 5.02 are not complete and are subject to, and qualified in their entirety by reference to, the full text of the plans, which are attached hereto as Exhibits 10.15, 10.16 and 10.17 and are incorporated herein by reference

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

Effective as of 11:59 p.m. Eastern Time on March 31, 2022, Embecta amended and restated its Certificate of Incorporation (the "Amended and Restated Certificate of Incorporation") and its Bylaws (the "Amended and Restated Bylaws"). A description of the material provisions of the 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 Embecta's 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 3.1 and 3.2, respectively.

Item 5.05 Amendments to the Registrants Code of Ethics, or Waiver of a Provision of the Code of Ethics

In connection with the Distribution, the Board adopted a Code of Conduct effective as of immediately prior to the Effective Time. A copy of Embecta's Code of Conduct is available on Embecta's website at *www.embecta.com*.

Item 8.01 Other Events

On April 1, 2022, Embecta issued a press release announcing the completion of the Distribution and the start of Embecta's operations as an independent public company. A copy of the press release is attached hereto as Exhibit 99.2.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits

Exhibit No.	Exhibit
2.1	Separation and Distribution Agreement, dated as of March 31, 2022, by and between Embecta and BD*
3.1	Amended and Restated Certificate of Incorporation of Embecta
3.2	Amended and Restated Bylaws of Embecta
4.1	Indenture, dated as of March 31, 2022, by and between Embecta Corp. and U.S. Bank Trust Company, National Association, as trustee and as notes collateral agent
4.2	First Supplemental Indenture, dated as of April 1, 2022, to the Indenture dated as of March 31, 2022, by and between Embecta Corp. and U.S. Bank Trust Company, National Association, as trustee and as notes collateral agent
4.3	Form of 6.750% Senior Secured Note due February 15, 2030 (included as Exhibit A to the Indenture filed as Exhibit 4.1 hereto)
4.4	First Supplemental Indenture, dated as of April 1, 2022, to the Indenture dated as of February 10, 2022, by and between Embecta Corp. and U.S. Bank Trust Company, National Association, as trustee and as notes collateral agent (filed as Exhibit 4.1 to the February 11, 2022 Form 8-K and incorporated by reference herein).
10.1	Transition Services Agreement, dated as of March 31, 2022, by and between BD and Embecta*
10.2	Tax Matters Agreement, dated as of March 31, 2022, by and between BD and Embecta*
10.3	Employee Matters Agreement, dated as of March 31, 2022, by and between BD and Embecta*
10.4	Intellectual Property Matters Agreement, dated as of March 31, 2022, by and between BD and Embecta*+

10.5	Form of Contract Manufacturing Agreement, dated as of March 31, 2022, by and between BD and Embecta*
10.6	Cannula Supply Agreement, dated as of March 31, 2022, by and between BD and Embecta*+
10.7	Lease Agreement, dated as of March 31, 2022, by and between BD and Embecta*+
10.8	Logistics Services Agreement, dated as of January 1, 2022, by and between BD and Embecta*
10.9	Form of Distribution Agreement, dated as of March 31, 2022, by and between BD and Embecta*
10.10	Credit Agreement, dated as of March 31, 2022, by and among Embecta Corp., the lenders and other parties from time to time party thereto and Morgan Stanley Senior Funding, Inc., as administrative agent, collateral agent and an L/C issuer*
10.11	Audit Committee Charter
10.12	Compensation and Management Development Committee Charter
10.13	Corporate Governance and Nominating Committee Charter
10.14	Technology Committee Charter
10.15	Embecta 2022 Employee and Director Equity Based Compensation Plan
10.16	Embecta Corp. Executive Severance and Change in Control Plan
10.17	Embecta Deferred Compensation Plan
99.1	Information Statement of Embecta, dated February 11, 2022 (incorporated herein by reference to Exhibit 99.1 to Embecta's Form 8-K, filed February 11, 2022)
99.2	Press release of Embecta, dated April 1, 2022
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

* Schedules and exhibits omitted pursuant to Item 601(b)(2) of Regulation S-K. Embecta agrees to furnish a supplemental copy of any omitted schedule to the Securities and Exchange Commission upon request.

\+ Certain confidential information contained in this document, marked by [***], has been omitted because it is both (i) not material and (ii) would be competitively harmful if publicly disclosed.

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.

Date: April 6, 2022

EMBECTA CORP.

By: /s/ Jacob Elguicze
Jacob Elguicze
Chief Financial Officer

Exhibit 2.1

EXECUTION VERSION

SEPARATION AND DISTRIBUTION AGREEMENT

BY AND BETWEEN

BECTON, DICKINSON AND COMPANY

AND

EMBECTA CORP.

DATED AS OF MARCH 31, 2022

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SCHEDULES

EXHIBITS

SEPARATION AND DISTRIBUTION AGREEMENT

This SEPARATION AND DISTRIBUTION AGREEMENT, dated as of March 31, 2022 (this "Agreement"), is by and between Becton, Dickinson and Company, a New Jersey corporation ("Parent"), and Embecta Corp., a Delaware corporation ("SpinCo"). Capitalized terms used herein and not otherwise defined shall have the respective meanings assigned to them in Article I.

R E C I T A L S

WHEREAS, the board of directors of Parent (the "Parent Board") has determined that it is in the best interests of Parent and its shareholders to create a new publicly traded company that shall operate the SpinCo Business;

WHEREAS, in furtherance of the foregoing, the Parent Board has determined that it is appropriate and desirable to separate the SpinCo Business from the Parent Business (the "Separation") and, following the Separation, make a distribution, on a pro rata basis, to holders of Parent Shares on the Record Date of all of the outstanding SpinCo Shares owned by Parent (the "Distribution");

WHEREAS, SpinCo has been incorporated solely for these purposes and has not engaged in activities except in connection with the Separation and the Distribution;

WHEREAS, for U.S. federal income tax purposes, the contribution by Parent of the SpinCo Assets to SpinCo in exchange for the Cash Transfer, the assumption of the SpinCo Liabilities, the issuance to Parent of Exchange Debt (if any) and the actual or deemed issuance of additional SpinCo Shares (the "Contribution") and the Distribution, taken together, are intended to qualify as a transaction that is generally tax-free for U.S. federal income tax purposes under Sections 355, 361 and 368(a)(1)(D) of the Code;

WHEREAS, for U.S. federal income tax purposes, this Agreement (including the Separation Step Plan attached hereto as Schedule 2.1(a)) is intended to be, and is hereby adopted as, a "plan of reorganization" within the meaning of Section 368 of the Code and Treasury Regulations Sections 1.368-2(g) and 1.368-3(a);

WHEREAS, SpinCo and Parent have prepared, and SpinCo has filed with the SEC, the Form 10, which includes the Information Statement, and which sets forth disclosure concerning SpinCo, the Separation and the Distribution;

WHEREAS, each of Parent and SpinCo has determined that it is appropriate and desirable to set forth the principal corporate transactions required to effect the Separation and the Distribution and certain other agreements that will govern certain matters relating to the Separation and the Distribution and the relationship of Parent, SpinCo and the members of their respective Groups following the Distribution; and

WHEREAS, the Parties acknowledge that this Agreement and the Ancillary Agreements represent the integrated agreement of Parent and SpinCo relating to the Separation and the Distribution, are being entered into together, and would not have been entered into independently.

NOW, THEREFORE, in consideration of 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, the Parties, intending to be legally bound, hereby agree as follows:

ARTICLE I
DEFINITIONS

For the purpose of this Agreement, the following terms shall have the following meanings:

"Action" shall mean any demand, action, claim, dispute, suit, countersuit, arbitration, inquiry, subpoena, proceeding or investigation of any nature (whether criminal, civil, legislative, administrative, regulatory, prosecutorial or otherwise) by or before any federal, state, local, foreign or international Governmental Authority or any arbitration or mediation tribunal.

"Affiliate" shall mean, when used with respect to a specified Person, a Person that, directly or indirectly, through one (1) or more intermediaries, controls, is controlled by or is under common control with such specified Person. For the purpose of this definition, "control" (including, with correlative meanings, "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, agreement, obligation, indenture, instrument, lease, promise, arrangement, release, warranty, commitment, undertaking or otherwise. It is expressly agreed that, prior to, at and after the Effective Time, solely for purposes of this Agreement and the Ancillary Agreements, (a) no member of the SpinCo Group shall be deemed to be an Affiliate of any member of the Parent Group and (b) no member of the Parent Group shall be deemed to be an Affiliate of any member of the SpinCo Group.

"Agreement" shall have the meaning set forth in the Preamble.

"Ancillary Agreements" shall mean all agreements (other than this Agreement) entered into by the Parties or the members of their respective Groups (but only agreements as to which no Third Party is a party) in connection with the Separation, the Distribution, or the other transactions contemplated by this Agreement, including the Transition Services Agreement, the Tax Matters Agreement, the Employee Matters Agreement, the Cannula Supply Agreement, the Contract Manufacturing Agreements, the Logistics Services Agreements, the Distribution Services Agreements, the Lease Agreement, the Intellectual Property Matters Agreement, the Data Agreement, the Transfer Documents and any other agreement that by its express terms provides that it shall be an Ancillary Agreement for purposes of this Agreement.

"Approvals or Notifications" shall mean any consents, waivers, approvals, permits or authorizations to be obtained from, notices, registrations or reports to be submitted to, or other filings to be made with, any Third Party, including any Governmental Authority.

"Assets" shall mean, with respect to any Person, the assets, properties, claims and rights (including goodwill) of such Person, 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, intangible or contingent, 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 such Person, including rights and benefits pursuant to any contract, license, permit, indenture, note, bond, mortgage, agreement, concession, franchise, instrument, undertaking, commitment, understanding or other arrangement.

"BD Name and BD Marks" shall mean the names, Trademarks, monograms, domain names, media accounts or "handles" with Facebook, LinkedIn, Twitter and other social media platforms, and other source or business identifiers of either Party or any member of its Group using or containing "BD", either alone or in combination with other words or elements, and all names, Trademarks, monograms, domain names, social media accounts and other source or business identifiers confusingly similar to or embodying any of the foregoing either alone or in combination with other words or elements.

"Cannula Supply Agreement" shall mean the Cannula Supply Agreement to be entered into by and between Parent and SpinCo or the members of their respective Groups in connection with the Separation, the Distribution or the other transactions contemplated by this Agreement, as it may be amended from time to time.

"Cash Transfer" shall have the meaning set forth in Section 2.12(a).

"CEO Negotiation Request" shall have the meaning set forth in Section 7.3.

"Chosen Courts" shall have the meaning set forth in Section 10.2(b).

"Code" shall mean the Internal Revenue Code of 1986, as amended.

"Contract Manufacturing Agreements" shall mean the one or more Contract Manufacturing Agreements for each of: (i) Dun Laoghaire, Ireland, (ii) Suzhou, China, (iii) Drogheda, Ireland, (iv) Curitiba, Brazil, (v) Bawal, India, (vi) Holdrege, Nebraska and (vii) Cuatitlan, Mexico, in each case, to be entered into by and between Parent and SpinCo or the members of their respective Groups in connection with the Separation, the Distribution or the other transactions contemplated by this Agreement, each as it may be amended from time to time.

"Contribution" shall have the meaning set forth in the Recitals.

"Covered Policies" shall have the meaning set forth in Section 5.1(b).

"COVID-19" shall mean SARS-CoV-2 or COVID-19, and any evolutions, variants, mutations or worsening thereof or related or associated epidemics, pandemics or disease outbreaks (including any subsequent waves).

"CPR" shall have the meaning set forth in Section 7.4.

"Data Agreement" shall mean the Data Agreement to be entered into by and between Parent and SpinCo or the members of their respective Groups in connection with the Separation, the Distribution or the other transactions contemplated by this Agreement, as it may be amended from time to time.

"Debt-for-Debt Exchange" shall have the meaning set forth in Section 2.12(a).

"Deferred SpinCo Local Business" shall mean each of the jurisdictions listed on Schedule 1.3 in which, due to the requirements of applicable Laws, the need to obtain certain consents from local Governmental Authorities or for other business reasons, the Parties have agreed to defer until after the Effective Time the transfer of legal title to all or a portion of the SpinCo Assets and the assumption of all or a portion of the SpinCo Liabilities from Parent or a member of the Parent Group to SpinCo or a member of the SpinCo Group.

"Delayed Parent Asset" shall have the meaning set forth in Section 2.4(h).

"Delayed Parent Liability" shall have the meaning set forth in Section 2.4(h).

"Delayed SpinCo Asset" shall have the meaning set forth in Section 2.4(c).

"Delayed SpinCo Liability" shall have the meaning set forth in Section 2.4(c).

"Disclosure Document" shall mean any registration statement (including the Form 10) filed with the SEC by or on behalf of any Party or any member of its Group, and also includes any information statement (including the Information Statement), prospectus, offering memorandum, offering circular, periodic report or similar disclosure document, whether or not filed with the SEC or any other Governmental Authority, in each case that describes the Contribution, the Separation or the Distribution or the SpinCo Group or primarily relates to the transactions contemplated hereby.

"Dispute" shall have the meaning set forth in Section 7.1.

"Distribution" shall have the meaning set forth in the Recitals.

"Distribution Agent" shall mean the trust company or bank duly appointed by Parent to act as distribution agent, transfer agent and registrar for the SpinCo Shares in connection with the Distribution.

"Distribution Date" shall mean the date of the consummation of the Distribution, which shall be determined by the Parent Board in its sole and absolute discretion.

"Distribution Services Agreements" shall mean the Distribution Services Agreements to be entered into by and between Parent and SpinCo or any members of their respective Groups in connection with the Separation, the Distribution or the other transactions contemplated by this Agreement, as it may be amended from time to time.

"e-mail" shall have the meaning set forth in Section 10.5.

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

"Employee Matters Agreement" shall mean the Employee Matters Agreement to be entered into by and between Parent and SpinCo or the members of their respective Groups in connection with the Separation, the Distribution or the other transactions contemplated by this Agreement, as it may be amended from time to time.

"Environmental Law" shall mean any Law relating to pollution, protection or restoration of or prevention of harm to the environment or natural resources, including the use, handling, transportation, treatment, storage, disposal, Release or discharge of Hazardous Materials or the protection of or prevention of harm to human health and safety.

"Environmental Liabilities" shall mean all Liabilities relating to, arising out of or resulting from any Hazardous Materials, Environmental Law or contract or agreement relating to environmental, health or safety matters (including all removal, remediation or cleanup costs, investigatory costs, response costs, natural resources damages, property damages, personal injury damages, costs of compliance with any product take back requirements or with any settlement, judgment or other determination of Liability and indemnity, contribution or similar obligations) and all costs and expenses, interest, fines, penalties or other monetary sanctions in connection therewith.

"Exchange Act" shall mean the U.S. Securities Exchange Act of 1934, as amended, together with the rules and regulations promulgated thereunder.

"Exchange Debt" shall have the meaning set forth in Section 2.12(a).

"Force Majeure" shall mean, with respect to a Party, an event beyond the reasonable control of such Party (or any Person acting on its behalf), which event (a) does not arise or result from the fault or negligence of such Party (or any Person acting on its behalf) and (b) by its nature would not reasonably have been foreseen by such Party (or such Person), or, if it would reasonably have been foreseen, was unavoidable, and includes acts of God, acts of civil or military authority, acts of terrorism, cyberattacks, embargoes, epidemics, pandemics (including COVID-19 and Pandemic Measures), war, riots, insurrections, fires, explosions, earthquakes, floods, unusually severe weather conditions, labor problems or unavailability of parts, or, in the case of computer systems, any significant and prolonged failure in electrical or air conditioning equipment. Notwithstanding the foregoing, the receipt by a Party of an unsolicited takeover offer or other acquisition proposal, even if unforeseen or unavoidable, and such Party's response thereto shall not be deemed an event of Force Majeure**.**

"Form 10" shall mean the registration statement on Form 10 filed by SpinCo with the SEC to effect the registration of SpinCo Shares pursuant to the Exchange Act in connection with the Distribution, as such registration statement may be amended or supplemented from time to time prior to the Distribution.

"Governmental Approvals" shall mean any Approvals or Notifications to be made to, or obtained from, any Governmental Authority.

"Governmental Authority" shall mean any nation or government, any state, municipality or other political subdivision thereof, and any entity, body, agency, commission, department, board, bureau, court, tribunal or other instrumentality, whether federal, state, local, domestic, foreign or multinational, exercising executive, legislative, judicial, regulatory, administrative or other similar functions of, or pertaining to, a government and any executive official thereof.

"Group" shall mean either the SpinCo Group or the Parent Group, as the context requires.

"Hazardous Materials" shall mean any chemical, material, substance, waste, pollutant, emission, discharge, release or contaminant that could result in Liability under, or that is prohibited, limited or regulated by or pursuant to, any Environmental Law, and any natural or artificial substance (whether solid, liquid or gas, noise, ion, vapor or electromagnetic) that could cause harm to human health or the environment, including petroleum, petroleum products and byproducts, asbestos and asbestos-containing materials, urea formaldehyde foam insulation, electronic, medical or infectious wastes, polychlorinated biphenyls, radon gas, radioactive substances, chlorofluorocarbons and all other ozone-depleting substances.

"Indemnifying Party" shall have the meaning set forth in Section 4.4(a).

"Indemnitee" shall have the meaning set forth in Section 4.4(a).

"Indemnity Payment" shall have the meaning set forth in Section 4.4(a).

"Information Statement" shall mean the information statement to be made available to the holders of Parent Shares in connection with the Distribution, as such information statement may be amended or supplemented from time to time prior to the Distribution.

"Information Technology" shall mean all computer systems (including hardware, computers, servers, workstations, routers, hubs, switches, and data communication lines), network and telecommunications equipment, Internet-related information technology infrastructure, and other information technology equipment, and all associated documentation.

"Initial Notice" shall have the meaning set forth in Section 7.1.

"Insurance Proceeds" shall mean those monies:

(a) received by an insured from an insurance carrier; or

(b) paid by an insurance carrier on behalf of the insured;

in any such case net of any applicable premium adjustments (including reserves and retrospectively rated premium adjustments) and net of any costs or expenses incurred in the collection thereof.

"Intellectual Property Matters Agreement" shall mean the Intellectual Property Matters Agreement to be entered into by and between Parent and SpinCo or the members of their respective Groups in connection with the Separation, the Distribution or the other transactions contemplated by this Agreement, as it may be amended from time to time.

"Intellectual Property Rights" shall mean any and all common law and statutory rights anywhere in the world arising under or associated with the following: (a) patents, patent applications, utility models, statutory invention registrations, certificates of invention, registered designs, utility models and similar or equivalent rights in inventions and designs, and all rights therein provided by international treaties or conventions ("Patents"), (b) trademarks, service marks, trade names, service names, trade dress, logos and other designations of origin, including any registrations and applications for registration of any of the foregoing ("Trademarks"), (c) rights associated with Internet domain names, uniform resource locators, Internet Protocol addresses, social media accounts or "handles" with Facebook, LinkedIn, Twitter and similar social media platforms, handles, and other names, identifiers, and locators associated with Internet addresses, sites, and services ("Internet Properties"), (d) copyrights and any other equivalent rights in works of authorship (including rights in software or databases as a work of authorship) and any other related rights of authors, and all registrations and applications for registration of any of the foregoing, ("Copyrights"), (e) trade secrets and industrial secret rights and rights in know-how, inventions, data, and any other confidential or proprietary business or technical information, that derive independent economic value, whether actual or potential, from not being known to other persons ("Trade Secrets"), and (f) all other similar or equivalent intellectual property or proprietary rights anywhere in the world.

"Law" shall mean any national, supranational, federal, state, provincial, local or similar law (including common law), statute, code, order, ordinance, rule, regulation, treaty (including any income tax treaty), license, Permit, decree, injunction, binding judicial or administrative interpretation or other requirement, in each case, enacted, promulgated, issued or entered by a Governmental Authority.

"Lease Agreement" shall mean the Lease Agreement for Holdrege, Nebraska and the other land use, leasing or subleasing agreements, in each case to be entered into by and between Parent and SpinCo or the members of their respective Groups in connection with the Separation, the Distribution or the other transactions contemplated by this Agreement, each as it may be amended from time to time.

"Liabilities" shall mean all debts, guarantees, assurances, commitments, liabilities, responsibilities, Losses, remediation, deficiencies, fines, settlements, sanctions, costs, interest and obligations of any nature or kind, whether accrued or fixed, absolute or contingent, matured or unmatured, accrued or not accrued, asserted or unasserted, liquidated or unliquidated, foreseen or unforeseen, known or unknown, reserved or unreserved, or determined or determinable, including those arising under any Law, Action (including any Third-Party Claim) or order, writ, judgment, injunction, decree, stipulation, determination or award entered by or with any Governmental Authority or arbitration tribunal, and those arising under any contract, agreement, obligation, indenture, instrument, lease, promise, arrangement, release, warranty, commitment or undertaking, or any fines, damages or equitable relief that is imposed, in each case, including all costs and expenses relating thereto.

"Logistics Services Agreements" shall mean the Logistics Services Agreements to be entered into by and between Parent and SpinCo or any members of their respective Groups in connection with the Separation, the Distribution or the other transactions contemplated by this Agreement, as it may be amended from time to time.

"Losses" shall mean actual losses (including any diminution in value), costs, damages, penalties and expenses (including legal and accounting fees and expenses and costs of investigation and litigation), whether or not involving a Third-Party Claim.

"Mediation Request" shall have the meaning set forth in Section 7.4.

"NYSE" shall mean the New York Stock Exchange.

"Officer Negotiation Request" shall have the meaning set forth in Section 7.2.

"Pandemic Measures" shall mean any quarantine, "shelter in place," stay at home," workforce reduction, social distancing, shut down, closure, sequester, immunization requirement, safety or similar Law, directive, guidelines or recommendations promulgated by any Governmental Authority, including the Centers for Disease Control and Prevention and the World Health Organization, in each case, in connection with or in response to a pandemic, including COVID-19.

"Parent" shall have the meaning set forth in the Preamble.

"Parent Accounts" shall have the meaning set forth in Section 2.9(a).

"Parent Assets" shall have the meaning set forth in Section 2.2(b).

"Parent Board" shall have the meaning set forth in the Recitals.

"Parent Books and Records" shall have the meaning set forth in Section 2.2(a).

"Parent Business" shall mean all businesses, operations and activities (whether or not such businesses, operations or activities are or have been terminated, divested or discontinued) conducted at any time prior to the Effective Time by either Party or any member of its Group, other than the SpinCo Business.

"Parent Group" shall mean Parent and each Person that is a Subsidiary of Parent (other than SpinCo and any other member of the SpinCo Group).

"Parent Indemnitees" shall have the meaning set forth in Section 4.2.

"Parent Liabilities" shall have the meaning set forth in Section 2.3(b).

"Parent Shares" shall mean the shares of common stock, par value $1.00 per share, of Parent.

"Parties" shall mean the parties to this Agreement.

"Parent-to-SpinCo Cash Sweep Payments" shall have the meaning set forth in Section 2.9(f).

"Permits" shall mean permits, approvals, authorizations, consents, licenses or certificates issued by any Governmental Authority.

"Person" shall mean an individual, a general or limited partnership, a corporation, a trust, a joint venture, an unincorporated organization, a limited liability entity, any other entity and any Governmental Authority.

"Prime Rate" shall mean the rate that Bloomberg displays as "Prime Rate by Country United States" or "Prime Rate by Country US-BB Comp" at *https://www.bloomberg.com/quote/PRIME:IND* or on a Bloomberg terminal at PRIMBB Index.

"Privileged Information" shall mean any information, in written, oral, electronic or other tangible or intangible forms, including any communications by or to attorneys (including attorney-client privileged communications), memoranda and other materials prepared by attorneys or under their direction (including attorney work product), as to which a Party or any member of its Group would be entitled to assert or have asserted a privilege or other protection, including the attorney-client and attorney work product privileges.

"Procedure" shall have the meaning set forth in Section 7.4.

"Record Date" shall mean the close of business on the date to be determined by the Parent Board as the record date for determining holders of Parent Shares entitled to receive SpinCo Shares pursuant to the Distribution.

"Record Holders" shall mean the holders of record of Parent Shares as of the Record Date.

"Registered IP" shall mean all United States, international or foreign (a) Patents and Patent applications, (b) registered Trademarks and applications to register Trademarks, (c) registered Copyrights and applications for Copyright registration, and (d) registered Internet Properties.

"Release" shall mean any release, spill, emission, discharge, leaking, pumping, pouring, dumping, injection, deposit, disposal, dispersal, leaching or migration of Hazardous Materials into the environment (including ambient air, surface water, groundwater and surface or subsurface strata).

"Representatives" shall mean, with respect to any Person, any of such Person's directors, officers, employees, agents, consultants, advisors, accountants, attorneys or other representatives.

"SEC" shall mean the U.S. Securities and Exchange Commission.

"Security Interest" shall mean any mortgage, security interest, pledge, lien, charge, claim, option, right to acquire, voting or other restriction, right-of-way, covenant, condition, easement, encroachment, restriction on transfer, or other encumbrance of any nature whatsoever.

"Selected Stock Exchange" shall mean the Nasdaq Global Select Market.

"Separation" shall have the meaning set forth in the Recitals.

"Separation Step Plan" shall have the meaning set forth in Section 2.1(a).

"Shared Contract" shall have the meaning set forth in Section 2.8(a).

"Software" shall mean any and all (a) computer programs, including any and all software implementation of algorithms, models and methodologies, whether in source code, object code, human readable form or other form, (b) databases and compilations, including any and all data and collections of data, whether machine readable or otherwise, (c) descriptions, flow charts and other work products used to design, plan, organize and develop any of the foregoing, (d) screens, user interfaces, report formats, firmware, development tools, templates, menus, buttons and icons and (e) documentation, including user manuals and other training documentation, relating to any of the foregoing.

"Specified Ancillary Agreement" shall have the meaning set forth in Section 10.18(b).

"SpinCo" shall have the meaning set forth in the Preamble.

"SpinCo Accounts" shall have the meaning set forth in Section 2.9(a).

"SpinCo Assets" shall have the meaning set forth in Section 2.2(a).

"SpinCo Balance Sheet" shall mean the pro forma combined balance sheet of the SpinCo Business, including any notes and subledgers thereto, as of September 30, 2021, as presented in the Information Statement made available to the Record Holders.

"SpinCo Books and Records" shall mean all books and records to the extent used in or necessary, as of immediately prior to the Effective Time, for the operation of the SpinCo Business, including financial, employee, and general business operating documents, instruments, papers, books, books of account, records and files and data related thereto (including regulatory dossiers, correspondence and related documentation); provided, that SpinCo Books and Records shall not include material that Parent is not permitted by applicable Law or agreement to disclose or transfer to SpinCo; provided, further, that SpinCo Books and Records shall not include any Intellectual Property Rights or Technology.

"SpinCo Business" shall mean the business, operations and activities of the Diabetes Care business unit of Parent as conducted as of immediately prior to the Effective Time by either Party or any of its Subsidiaries, which includes the manufacturing and sale of syringes, pen needles and other products related to the injection or infusion of insulin and other drugs used in the treatment of diabetes.

"SpinCo Bylaws" shall mean the Amended and Restated Bylaws of SpinCo, substantially in the form of Exhibit B.

"SpinCo Certificate of Incorporation" shall mean the Amended and Restated Certificate of Incorporation of SpinCo, substantially in the form of Exhibit A.

"SpinCo Contracts" shall mean the following contracts and agreements to which either Party or any member of its Group is a party or by which it or any member of its Group or any of their respective Assets is bound, whether or not in writing:

(a) any vendor contracts or agreements with a Third Party pursuant to which such Third Party provides information technology, human resources or financial services to either Party or any member of its Group exclusively used or exclusively held for use in the SpinCo Business as of the Effective Time;

(b) other than any vendor contracts or agreements with a Third Party pursuant to which such Third Party provides information technology, human resources or financial services to either Party or any member of its Group (which contracts and agreements are addressed in clause (a) above to the extent that they shall constitute a SpinCo Contract), (i) any customer, sales, distribution, purchase, rebate, reimbursement, payor, retail, development, research, collaboration, promotion, quality, regulatory, services, purchase order, statement of work, supply or vendor contract or agreement with a Third Party entered into prior to the Effective Time exclusively related to the SpinCo Business and (ii) with respect to any customer, sales, distribution, purchase, rebate, reimbursement, payor, retail, development, research, collaboration, promotion, quality, regulatory, services, purchase order, statement of work, supply or vendor contract or agreement with a Third Party entered into prior to the Effective Time that relates to the SpinCo Business but is not exclusively related to the SpinCo Business, that portion of any such contract or agreement that relates to the SpinCo Business;

(c) other than any vendor contracts or agreements with a Third Party pursuant to which such Third Party provides information technology, human resources or financial services to either Party or any member of its Group (which contracts and agreements are addressed in clause (a) above to the extent that they shall constitute a SpinCo Contract), (i) any license agreement entered into prior to the Effective Time exclusively related to the SpinCo Business and (ii) with respect to any license agreement entered into prior to the Effective Time that relates to the SpinCo Business but is not exclusively related to the SpinCo Business, that portion of any such license agreement that relates to the SpinCo Business;

(d) any guarantee, indemnity, representation, covenant, warranty or other Liability of either Party or any member of its Group in respect of any other SpinCo Contract, any SpinCo Liability or the SpinCo Business;

(e) any contract or agreement that is expressly contemplated by this Agreement or any of the Ancillary Agreements to be assigned to SpinCo or any member of the SpinCo Group;

(f) any interest rate, currency, commodity or other swap, collar, cap or other hedging or similar agreements or arrangements exclusively related to the SpinCo Business;

(g) any credit agreement, indenture, note or other financing agreement or instrument entered into by SpinCo and/or any member of the SpinCo Group in connection with the Separation, including any SpinCo Financing Arrangements;

(h) any contract or agreement entered into in the name of, or expressly on behalf of, any division, business unit or member of the SpinCo Group;

(i) any employment, change of control, retention, consulting, indemnification, termination, severance or other similar agreements with any SpinCo Group Employee or consultants of the SpinCo Group that are in effect as of the Effective Time; and

(j) any contracts, agreements or settlements set forth on Schedule 1.5, including the right to recover any amounts under such contracts, agreements or settlements;

Notwithstanding the foregoing, SpinCo Contracts shall not in any event include (x) any contract or agreement that is contemplated to be retained by Parent or any member of the Parent Group from and after the Effective Time pursuant to any provision of this Agreement or any Ancillary Agreement or (y) any contract or agreement pursuant to which a Third Party licenses or supplies Information Technology, Software, Technology or Intellectual Property Rights to either Party or any of the members of its Group that is not exclusively for the use and benefit of the SpinCo Business.

"SpinCo Debt Cash Amount" shall have the meaning set forth in Section 2.2(b).

"SpinCo Designees" shall mean any and all entities (including corporations, general or limited partnerships, trusts, joint ventures, unincorporated organizations, limited liability entities or other entities) designated by Parent that will be members of the SpinCo Group as of immediately prior to the Effective Time.

"SpinCo Factoring Amount" shall have the meaning set forth in Section 2.2(b).

"SpinCo Financing Arrangements" shall have the meaning set forth in Section 2.12(a).

"SpinCo Group" shall mean (a) prior to the Effective Time, SpinCo and each Person that will be a Subsidiary of SpinCo as of immediately after the Effective Time, including the Transferred Entities, even if, prior to the Effective Time, such Person is not a Subsidiary of SpinCo, and (b) on and after the Effective Time, SpinCo and each Person that is a Subsidiary of SpinCo.

"SpinCo Group Employee" shall have the meaning set forth in the Employee Matters Agreement.

"SpinCo Indemnitees" shall have the meaning set forth in Section 4.3.

"SpinCo Intellectual Property Rights" shall mean (a) the Patents, Trademarks, Internet Properties and other Registered IP set forth on Schedule 1.6(a), and (b) the Intellectual Property Rights (other than Patents, Trademarks, Internet Properties and other Registered IP) that are owned by either Party or any of the members of its Group as of immediately prior to the Effective Time and embodied in or by the items set forth on Schedule 1.6(b).

"SpinCo IT Assets" shall mean (a) all Information Technology owned by either Party or any member of its Group as of immediately prior to the Effective Time that is exclusively used or exclusively held for use in the SpinCo Business; and (b) all Third-Party Software loaded thereon to the extent the applicable contract has transferred to the SpinCo Group pursuant to the terms of this Agreement or the SpinCo Group otherwise independently has a license to such Software.

"SpinCo Liabilities" shall have the meaning set forth in Section 2.3(a).

"SpinCo Permits" shall mean all Permits owned or licensed by either Party or any member of its Group exclusively used or exclusively held for use in the SpinCo Business as of the Effective Time.

"SpinCo Shares" shall mean the shares of common stock, par value $0.01 per share, of SpinCo.

"SpinCo Technology" shall mean any Technology with respect to which the Intellectual Property Rights therein are owned by either Party or any member of its Group to the extent that such Technology is (a) used in, held for use in or necessary for the operation of the SpinCo Business as of the Effective Time and capable of being copied (for example, Software), including Technology set forth on Schedule 1.7, and (b) the know-how of the SpinCo Group Employees to the extent related to the SpinCo Business, but in each case, excluding any Technology set forth on Schedule 1.8, any Information Technology and any SpinCo Books and Records. For clarity, SpinCo Technology does not include any Intellectual Property Rights.

"SpinCo-to-Parent Cash Sweep Payments" shall have the meaning set forth in Section 2.9(f).

"SpinCo-to-Parent Distribution Transaction" shall have the meaning set forth in Section 2.12(a).

"Straddle Period" shall have the meaning set forth in Section 2.13.

"Subsidiary" shall mean, with respect to any Person, any corporation, limited liability company, joint venture or partnership of which such Person (a) beneficially owns, either directly or indirectly, more than fifty percent (50%) of (i) the total combined voting power of all classes of voting securities, (ii) the total combined equity interests or (iii) the capital or profit interests, in the case of a partnership, or (b) otherwise has the power to vote, either directly or indirectly, sufficient securities to elect a majority of the board of directors or similar governing body.

"Tangible Information" shall mean information that is contained in written, electronic or other tangible forms.

"Tax" shall have the meaning set forth in the Tax Matters Agreement.

"Tax Matters Agreement" shall mean the Tax Matters Agreement to be entered into by and between Parent and SpinCo in connection with the Separation, the Distribution or the other transactions contemplated by this Agreement, as it may be amended from time to time.

"Tax Return" shall have the meaning set forth in the Tax Matters Agreement.

"Technology" shall mean embodiments of Intellectual Property Rights, including blueprints, designs, design protocols, documentation, specifications for materials, specifications for parts and devices, and design tools, materials, manuals, data, databases, Software and know-how or knowledge of employees, relating to, embodying, or describing products, articles, apparatus, devices, processes, methods, formulae, recipes or other technical information; provided that "Technology" shall not include personal property, Information Technology, books and records or any Intellectual Property Rights.

"Third Party" shall mean any Person other than the Parties or any members of their respective Groups.

"Third-Party Claim" shall have the meaning set forth in Section 4.5(a).

"Transfer Documents" shall have the meaning set forth in Section 2.1(b).

"Transferred Entities" shall mean the entities set forth on Schedule 1.9.

"Transition Committee" shall have the meaning set forth in Section 2.14.

"Transition Services Agreement" shall mean the Transition Services Agreement to be entered into by and between Parent and SpinCo or any members of their respective Groups in connection with the Separation, the Distribution or the other transactions contemplated by this Agreement, as it may be amended from time to time.

"Unreleased Parent Liability" shall have the meaning set forth in Section 2.5(b)(ii).

"Unreleased SpinCo Liability" shall have the meaning set forth in Section 2.5(a)(ii).

ARTICLE II
THE SEPARATION

2.1 Transfer of Assets and Assumption of Liabilities.

(a) Subject to Section 2.4, on or prior to the Effective Time and prior to the Distribution, in accordance with the plan and structure set forth on Schedule 2.1(a) (the "Separation Step Plan"):

(i) *Transfer and Assignment of SpinCo Assets*. Parent shall, and shall cause the applicable members of its Group to, contribute, assign, transfer, convey and deliver to SpinCo, or the applicable SpinCo Designees, and SpinCo or such SpinCo Designees shall accept from Parent and the applicable members of the Parent Group, all of Parent's and such Parent Group member's respective direct or indirect right, title and interest in and to all of the SpinCo Assets (it being understood that if any SpinCo Asset shall be held by a Transferred Entity or a wholly owned Subsidiary of a Transferred Entity, such SpinCo Asset shall be deemed assigned, transferred, conveyed and delivered to SpinCo as a result of the transfer of all of the equity interests in such Transferred Entity from Parent or the applicable members of the Parent Group to SpinCo or the applicable SpinCo Designee);

(ii) *Acceptance and Assumption of SpinCo Liabilities*. SpinCo and the applicable SpinCo Designees shall accept, assume and agree faithfully to perform, discharge and fulfill all of the SpinCo Liabilities in accordance with their respective terms. SpinCo and such SpinCo Designees shall be responsible for all SpinCo Liabilities, regardless of when or where such SpinCo Liabilities arose or arise, or whether the facts on which they are based occurred prior to or subsequent to the Effective Time, regardless of where or against whom such SpinCo Liabilities are asserted or determined (including any SpinCo Liabilities arising out of claims made by Parent's or SpinCo's respective directors, officers, employees, agents, Subsidiaries or Affiliates against any member of the Parent Group or the SpinCo Group) or whether asserted or determined prior to the date hereof, and regardless of whether arising from or alleged to arise from negligence, recklessness, violation of Law, fraud or misrepresentation by any member of the Parent Group or the SpinCo Group, or any of their respective directors, officers, employees, agents, Subsidiaries or Affiliates;

(iii) *Transfer and Assignment of Parent Assets*. Parent and SpinCo shall cause SpinCo and the SpinCo Designees to contribute, assign, transfer, convey and deliver to Parent or certain members of the Parent Group designated by Parent, and Parent or such other members of the Parent Group shall accept from SpinCo and the SpinCo Designees, all of SpinCo's and such SpinCo Designees' respective direct or indirect right, title and interest in and to all Parent Assets held by SpinCo or a SpinCo Designee; and

(iv) *Acceptance and Assumption of Parent Liabilities*. Parent and certain members of the Parent Group designated by Parent shall accept and assume and agree faithfully to perform, discharge and fulfill all of the Parent Liabilities held by SpinCo or any SpinCo Designee and Parent and the applicable members of the Parent Group shall be responsible for all Parent Liabilities in accordance with their respective terms, regardless of when or where such Parent Liabilities arose or arise, or whether the facts on which they are based occurred prior to or subsequent to the Effective Time, regardless of where or against whom such Parent Liabilities are asserted or determined (including any such Parent Liabilities arising out of claims made by Parent's or SpinCo's respective directors, officers, employees, agents, Subsidiaries or Affiliates against any member of the Parent Group or the SpinCo Group) or whether asserted or determined prior to the date hereof, and regardless of whether arising from or alleged to arise from negligence, recklessness, violation of Law, fraud or misrepresentation by any member of the Parent Group or the SpinCo Group, or any of their respective directors, officers, employees, agents, Subsidiaries or Affiliates.

(b) *Transfer Documents*. In furtherance of the contribution, assignment, transfer, conveyance and delivery of the Assets and the assumption of the Liabilities in accordance with Section 2.1(a), and without prejudice to any actions taken to implement, or documents entered into between or among any of the Parties or members of their respective Groups to implement, or in furtherance of, the Separation Step Plan prior to the date hereof, (i) each Party shall execute and deliver, and shall cause the applicable members of its Group to execute and deliver, to the other Party, such bills of sale, quitclaim deeds, stock powers, certificates of title, assignments of contracts and other instruments of transfer, conveyance and assignment as and to the extent necessary to evidence the transfer, conveyance and assignment of all of such Party's and the applicable members of its Group's right, title and interest in and to such Assets to the other Party and the applicable members of its Group in accordance with Section 2.1(a), and (ii) each Party shall execute and deliver, and shall cause the applicable members of its Group to execute and deliver, to the other Party, such assumptions of contracts and other instruments of assumption as and to the extent necessary to evidence the valid and effective assumption of the Liabilities by such Party and the applicable members of its Group in accordance with Section 2.1(a). All of the foregoing documents contemplated by this Section 2.1(b) (including any documents entered into between or among any of the Parties or members of their respective Groups to implement or in furtherance of the Separation Step Plan prior to the date hereof) shall be referred to collectively herein as the "Transfer Documents."

(c) *Misallocations*. In the event that at any time or from time to time (whether prior to, at or after the Effective Time), one Party (or any member of such Party's Group) shall receive or otherwise possess any Asset that is allocated to the other Party (or any member of such Party's Group) pursuant to this Agreement or any Ancillary Agreement, such Party shall promptly transfer, or cause to be transferred, such Asset to the Party so entitled thereto (or to any member of such Party's Group), and such Party (or member of such Party's Group) so entitled thereto shall accept such Asset. Prior to any such transfer, the Person receiving or possessing such Asset shall hold such Asset in trust for such other Person. In the event that at any time or from time to time (whether prior to, at or after the Effective Time), one Party hereto (or any member of such Party's Group) shall receive or otherwise assume any Liability that is allocated to the other Party (or any member of such Party's Group) pursuant to this Agreement or any Ancillary Agreement, such Party shall promptly transfer, or cause to be transferred, such Liability to the Party responsible therefor (or to any member of such Party's Group), and such Party (or member of such Party's Group) responsible therefor shall accept, assume and agree to faithfully perform such Liability.

(d) *Waiver of Bulk-Sale and Bulk-Transfer Laws*. To the extent permissible under applicable Law, SpinCo hereby waives compliance by each and every member of the Parent Group with the requirements and provisions of any "bulk-sale" or "bulk-transfer" Laws of any jurisdiction that may otherwise be applicable with respect to the transfer or sale of any or all of the SpinCo Assets to any member of the SpinCo Group. To the extent permissible under applicable Law, Parent hereby waives compliance by each and every member of the SpinCo Group with the requirements and provisions of any "bulk-sale" or "bulk-transfer" Laws of any jurisdiction that may otherwise be applicable with respect to the transfer or sale of any or all of the Parent Assets to any member of the Parent Group.

2.2 SpinCo Assets; Parent Assets.

(a) *SpinCo Assets*. For purposes of this Agreement, "SpinCo Assets" shall mean:

(i) all issued and outstanding capital stock or other equity interests of the Transferred Entities that are owned by either Party or any members of its Group as of the Effective Time;

(ii) all Assets (other than cash and cash equivalents, which is addressed in clause (iv) below) of either Party or any members of its Group included or reflected as assets of the SpinCo Group on the SpinCo Balance Sheet (including any inventory), subject to any dispositions of such Assets subsequent to the date of the SpinCo Balance Sheet; provided that the amounts set forth on the SpinCo Balance Sheet with respect to any Assets shall not be treated as minimum or limitations on the amount of such Assets that are included in the definition of SpinCo Assets pursuant to this clause (ii);

(iii) all Assets (other than cash and cash equivalents, which is addressed in clause (iv) below) of either Party or any of the members of its Group as of the Effective Time that are of a nature or type that would have resulted in such Assets being included as Assets of SpinCo or members of the SpinCo Group on a pro forma combined balance sheet of the SpinCo Group or any notes or subledgers thereto as of the Effective Time, including any inventory (were such balance sheet, notes and subledgers to be prepared on a basis consistent with the determination of the Assets included on the SpinCo Balance Sheet), it being understood that (x) the SpinCo Balance Sheet shall be used to determine the types of, and methodologies used to determine, those Assets that are included in the definition of SpinCo Assets pursuant to this clause (iii); and (y) the amounts set forth on the SpinCo Balance Sheet with respect to any Assets shall not be treated as minimum amounts or limitations on the amount of such Assets that are included in the definition of SpinCo Assets pursuant to this clause (iii);

(iv) subject to Section 2.12(a), the Spinco Debt Cash Amount and the SpinCo Factoring Amount;

(v) all Assets of either Party or any of the members of its Group as of the Effective Time that are expressly provided by this Agreement or any Ancillary Agreement (or the Schedules hereto or thereto) as Assets to be transferred to SpinCo or any other member of the SpinCo Group;

(vi) all SpinCo Contracts as of the Effective Time and all rights, interests or claims of either Party or any of the members of its Group thereunder as of the Effective Time;

(vii) all SpinCo Intellectual Property Rights as of the Effective Time, including any goodwill appurtenant to any Trademarks included in the SpinCo Intellectual Property Rights and the right to seek, recover and retain damages for infringement of any SpinCo Intellectual Property Rights;

(viii) all SpinCo Technology as of immediately prior to the Effective Time;

(ix) all SpinCo IT Assets as of immediately prior to the Effective Time;

(x) all SpinCo Permits as of the Effective Time and all rights, interests or claims of either Party or any of the members of its Group thereunder as of the Effective Time;

(xi) all Assets of either Party or any of the members of its Group as of the Effective Time that are exclusively related to the SpinCo Business and that are of a type that are not addressed in subsections (i)-(x) and (xii) of this Section 2.2(a); and

(xii) copies of any and all SpinCo Books and Records in the possession of either Party as of immediately prior to the Effective Time; provided, that Parent shall be permitted to retain copies of, and continue to use, subject to Section 6.9, (A) any SpinCo Books and Records that as of the Effective Time are used in or necessary for the operation or conduct of the Parent Business, (B) any SpinCo Books and Records that Parent is required by Law to retain (and if copies are not provided to SpinCo, then, to the extent permitted by Law, such copies will be made available to SpinCo upon SpinCo's reasonable request), (C) one (1) copy of any SpinCo Books and Records to the extent required to demonstrate compliance with applicable Law or pursuant to internal compliance procedures or related to any Parent Assets or Parent's and/or its Affiliates' obligations under this Agreement or any of the Ancillary Agreements and (D) "back-up" electronic tapes of such SpinCo Books and Records maintained by Parent in the ordinary course of business (such material in clauses (A) through (D), the "Parent Books and Records")

Notwithstanding the foregoing, the SpinCo Assets shall not in any event include any Asset referred to in clauses (i) through (vii) of Section 2.2(b).

(b) *Parent Assets*. For the purposes of this Agreement, "Parent Assets" shall mean all Assets of either Party or the members of its Group as of the Effective Time, other than the SpinCo Assets, it being understood that, notwithstanding anything herein to the contrary, the Parent Assets shall include:

(i) all Assets of either Party or any of the members of its Group as of the Effective Time that are contemplated by this Agreement or any Ancillary Agreement (or the Schedules hereto or thereto) as Assets to be retained by Parent or any other member of the Parent Group;

(ii) all contracts and agreements of either Party or any of the members of its Group as of the Effective Time other than the SpinCo Contracts;

(iii) the BD Name and BD Marks and the Intellectual Property Rights set forth on Schedule 2.2(b)(iii), and (y) all other Intellectual Property Rights owned by either Party or any of the members of its Group as of the Effective Time other than, in the case of this clause (y), the SpinCo Intellectual Property Rights;

(iv) (A) the Technology set forth on Schedule 2.2(b)(iv), (B) all Technology of either Party or any of the members of its Group as of the Effective Time, other than, in the case of this clause (B), the copies of such Technology that are SpinCo Technology;

(v) all Information Technology, other than SpinCo IT Assets, owned by either Party or any member of its Group as of immediately prior to the Effective Time;

(vi) all Permits of either Party or any of the members of its Group as of the Effective Time other than the SpinCo Permits;

(vii) all Parent Books and Records;

(viii) all cash and cash equivalents of either Party or any of the members of its Group as of the Effective Time, other than, subject to Section 2.12(a), (A) an amount of cash and cash equivalents equal to one hundred sixty million dollars ($160,000,000) (the "SpinCo Debt Cash Amount") of the proceeds obtained by SpinCo prior to the Effective Time from the SpinCo Financing Arrangements (it being understood that SpinCo Debt Cash Amount is the amount of cash and cash equivalents of the proceeds from the SpinCo Financing Arrangements that shall be retained by SpinCo after the payment of its costs and expenses incurred in connection with the SpinCo Financing Arrangements); and (B) an amount of cash and cash equivalents equal to one hundred five million, one hundred eighty-two thousand dollars ($105,182,000) (the "SpinCo Factoring Amount"); and

(ix) any and all Assets set forth on Schedule 2.2(b)(vii).

2.3 SpinCo Liabilities; Parent Liabilities.

(a) *SpinCo Liabilities*. For the purposes of this Agreement, "SpinCo Liabilities" shall mean the following Liabilities of either Party or any of the members of its Group:

(i) all Liabilities included or reflected as liabilities or obligations of SpinCo or the members of the SpinCo Group on the SpinCo Balance Sheet, subject to any discharge of such Liabilities subsequent to the date of the SpinCo Balance Sheet; provided that the amounts set forth on the SpinCo Balance Sheet with respect to any Liabilities shall not be treated as minimum amounts or limitations on the amount of such Liabilities that are included in the definition of SpinCo Liabilities pursuant to this clause (i);

(ii) all Liabilities as of the Effective Time that are of a nature or type that would have resulted in such Liabilities being included or reflected as liabilities or obligations of SpinCo or the members of the SpinCo Group on a pro forma combined balance sheet of the SpinCo Group or any notes or subledgers thereto as of the Effective Time (were such balance sheet, notes and subledgers to be prepared on a basis consistent with the determination of the Liabilities included on the SpinCo Balance Sheet), it being understood that (x) the SpinCo Balance Sheet shall be used to determine the types of, and methodologies used to determine, those Liabilities that are included in the definition of SpinCo Liabilities pursuant to this clause (ii); and (y) the amounts set forth on the SpinCo Balance Sheet with respect to any Liabilities shall not be treated as minimum amounts or limitations on the amount of such Liabilities that are included in the definition of SpinCo Liabilities pursuant to this clause (ii);

(iii) all Liabilities, including any Environmental Liabilities, to the extent relating to , arising out of or resulting from (and only such portion relating to, arising out of or resulting from), (x) the business, operations and activities of the Diabetes Care business unit of Parent as conducted at any time prior to the Effective Time by either Party or any of its current or former Subsidiaries (including any terminated, divested or discontinued business, operations and activities of the Diabetes Care business unit, including those set forth on Schedule 1.4) or (y) any SpinCo Asset;

(iv) any and all Liabilities of either Party or any of the members of its Group as of the Effective Time that are expressly provided by this Agreement or any Ancillary Agreement (or the Schedules hereto or thereto) as Liabilities to be assumed by SpinCo or any other member of the SpinCo Group, and all agreements, obligations and Liabilities of any member of the SpinCo Group under this Agreement or any of the Ancillary Agreements;

(v) all Liabilities to the extent relating to, arising out of or resulting from (and only such portion relating to, arising out of or resulting from) the SpinCo Contracts, the SpinCo Intellectual Property Rights, the SpinCo IT Assets, the SpinCo Technology, the SpinCo Permits or the SpinCo Financing Arrangements;

(vi) any and all Liabilities set forth on Schedule 2.3(a); and

(vii) all Liabilities arising out of claims made by any Third Party (including Parent's or SpinCo's respective directors, officers, shareholders/stockholders, employees and agents) against any member of the Parent Group or the SpinCo Group to the extent relating to, arising out of or resulting from (and only such portion relating to, arising out of or resulting from) (x) the business, operations and activities of the Diabetes Care business unit of Parent as conducted at any time prior to the Effective Time by either Party or any of its current or former Subsidiaries (including any terminated, divested or discontinued business, operations and activities of the Diabetes Care business unit, including those set forth on Schedule 1.4), (y) any SpinCo Asset or (z) the other business, operations, activities or Liabilities of SpinCo referred to in clauses (i) through (vi) of this Section 2.3(a);

provided that, notwithstanding the foregoing, the Parties agree that any Liabilities of any member of the Parent Group pursuant to the Ancillary Agreements shall not be SpinCo Liabilities but instead shall be Parent Liabilities.

(b) *Parent Liabilities*. For the purposes of this Agreement, "Parent Liabilities" shall mean:

(i) all Liabilities of either Party or the members of its Group as of the Effective Time, in each case that are not SpinCo Liabilities; and

(ii) all Liabilities arising out of claims made by any Third Party (including Parent's or SpinCo's respective directors, officers, shareholders/stockholders, employees and agents) against any member of the Parent Group or the SpinCo Group to the extent relating to, arising out of or resulting from (and only such portion relating to, arising out of or resulting from) the Parent Business or the Parent Assets.

2.4 Approvals and Notifications.

(a) *Approvals and Notifications for SpinCo Assets and Liabilities*. To the extent that the transfer or assignment of any SpinCo Asset, the assumption of any SpinCo Liability, the Separation, or the Distribution requires any Approvals or Notifications, the Parties shall use their commercially reasonable efforts to obtain or make such Approvals or Notifications as soon as reasonably practicable; provided, however, that, except to the extent expressly provided in this Agreement or any of the Ancillary Agreements or as otherwise agreed between Parent and SpinCo, neither Parent nor SpinCo shall be obligated to contribute capital or pay any consideration in any form (including providing any letter of credit, guaranty or other financial accommodation) to any Person in order to obtain or make such Approvals or Notifications.

(b) *Delayed SpinCo Transfers*. If and to the extent that the valid, complete and perfected transfer or assignment to the SpinCo Group of any SpinCo Asset or assumption by the SpinCo Group of any SpinCo Liability in connection with the Separation or the Distribution would be a violation of applicable Law or require any Approval or Notification that has not been obtained or made by the Effective Time then, unless the Parties shall otherwise mutually determine, the transfer or assignment to the SpinCo Group of such SpinCo Assets or the assumption by the SpinCo Group of such SpinCo Liabilities, as the case may be, shall be automatically deemed deferred and any such purported transfer, assignment or assumption shall be null and void until such time as all legal impediments are removed or such Approval or Notification has been obtained or made. Notwithstanding the foregoing, any such SpinCo Assets or SpinCo Liabilities shall continue to constitute SpinCo Assets and SpinCo Liabilities for all other purposes of this Agreement.

(c) *Treatment of Delayed SpinCo Assets and Delayed SpinCo Liabilities*. If any transfer or assignment of any SpinCo Asset (or a portion thereof) or any assumption of any SpinCo Liability (or a portion thereof) intended to be transferred, assigned or assumed hereunder, as the case may be, is not consummated on or prior to the Effective Time, whether as a result of the provisions of Section 2.4(b) or for any other reason (any such SpinCo Asset (or a portion thereof), a "Delayed SpinCo Asset" and any such SpinCo Liability (or a portion thereof), a "Delayed SpinCo Liability"), then, insofar as reasonably possible and subject to applicable Law, the member of the Parent Group retaining such Delayed SpinCo Asset or such Delayed SpinCo Liability, as the case may be, shall thereafter hold such Delayed SpinCo Asset or Delayed SpinCo Liability, as the case may be, for the use and benefit of the member of the SpinCo Group entitled thereto (at the expense of the member of the SpinCo Group entitled thereto). In addition, the member of the Parent Group retaining such Delayed SpinCo Asset or such Delayed SpinCo Liability shall, insofar as reasonably possible and to the extent permitted by applicable Law, treat such Delayed SpinCo Asset or Delayed SpinCo Liability in the ordinary course of business in accordance with SpinCo Group past practice and take such other actions as may be reasonably requested by the member of the SpinCo Group to whom such Delayed SpinCo Asset is to be transferred or assigned, or which will assume such Delayed SpinCo Liability, as the case may be, in order to place such member of the SpinCo Group in a

substantially similar position as if such Delayed SpinCo Asset or Delayed SpinCo Liability had been transferred, assigned or assumed as contemplated hereby and so that all the benefits and burdens relating to such Delayed SpinCo Asset or Delayed SpinCo Liability, as the case may be, including use, risk of loss, potential for gain, and dominion, control and command over such Delayed SpinCo Asset or Delayed SpinCo Liability, as the case may be, and all costs and expenses related thereto, shall inure from and after the Effective Time to the SpinCo Group. Except as otherwise required by applicable Law, each of Parent and SpinCo shall, and shall cause the members of its Group to, (i) treat for all Tax purposes (x) any Delayed SpinCo Asset as an Asset owned by the Party entitled to such Delayed SpinCo Asset, and (y) any Delayed SpinCo Liability as a Liability of the Party intended to be responsible for such Delayed SpinCo Liability, in each case not later than the Effective Time, and (ii) neither report nor take any Tax position (on a Tax Return or otherwise) inconsistent with such treatment.

(d) *Transfer of Delayed SpinCo Assets and Delayed SpinCo Liabilities*. If and when the Approvals or Notifications, the absence of which caused the deferral of transfer or assignment of any Delayed SpinCo Asset or the deferral of assumption of any Delayed SpinCo Liability, are obtained or made, and, if and when any other legal impediments to the transfer or assignment of any Delayed SpinCo Asset or the assumption of any Delayed SpinCo Liability have been removed, the transfer or assignment of the applicable Delayed SpinCo Asset or the assumption of the applicable Delayed SpinCo Liability, as the case may be, shall be effected in accordance with the terms of this Agreement and/or the applicable Ancillary Agreement.

(e) *Costs for Delayed SpinCo Assets and Delayed SpinCo Liabilities*. Any member of the Parent Group retaining a Delayed SpinCo Asset or Delayed SpinCo Liability due to the deferral of the transfer or assignment of such Delayed SpinCo Asset or the deferral of the assumption of such Delayed SpinCo Liability, as the case may be, shall not be obligated, in connection with the foregoing, to expend any money unless the necessary funds are advanced (or otherwise made available) by SpinCo or the member of the SpinCo Group entitled to the Delayed SpinCo Asset or Delayed SpinCo Liability, other than reasonable out-of-pocket expenses, attorneys' fees and recording or similar fees, all of which shall be promptly reimbursed by SpinCo or the member of the SpinCo Group entitled to such Delayed SpinCo Asset or Delayed SpinCo Liability; provided, however, that the Parent Group shall not knowingly allow the loss or diminution of value of any Delayed SpinCo Asset without first providing the SpinCo Group commercially reasonable notice of such potential loss or diminution in value and affording the SpinCo Group a commercially reasonable opportunity to take action to prevent such loss or diminution in value.

(f) *Approvals and Notifications for Parent Assets*. To the extent that the transfer or assignment of any Parent Asset, the assumption of any Parent Liability, the Separation or the Distribution requires any Approvals or Notifications, the Parties shall use their commercially reasonable efforts to obtain or make such Approvals or Notifications as soon as reasonably practicable; provided, however, that, except to the extent expressly provided in this Agreement or any of the Ancillary Agreements or as otherwise agreed between Parent and SpinCo, neither Parent nor SpinCo shall be obligated to contribute capital or pay any consideration in any form (including providing any letter of credit, guaranty or other financial accommodation) to any Person in order to obtain or make such Approvals or Notifications.

(g) *Delayed Parent Transfers*. If and to the extent that the valid, complete and perfected transfer or assignment to the Parent Group of any Parent Asset or assumption by the Parent Group of any Parent Liability in connection with the Separation or the Distribution would be a violation of applicable Law or require any Approval or Notification that has not been obtained or made by the Effective Time then, unless the Parties shall otherwise mutually determine, the transfer or assignment to the Parent Group of such Parent Assets or the assumption by the Parent Group of such Parent Liabilities, as the case may be, shall be automatically deemed deferred and any such purported transfer, assignment or assumption shall be null and void until such time as all legal impediments are removed or such Approval or Notification has been obtained or made. Notwithstanding the foregoing, any such Parent Assets or Parent Liabilities shall continue to constitute Parent Assets and Parent Liabilities for all other purposes of this Agreement.

(h) *Treatment of Delayed Parent Assets and Delayed Parent Liabilities*. If any transfer or assignment of any Parent Asset (or a portion thereof) or any assumption of any Parent Liability (or a portion thereof) intended to be transferred, assigned or assumed hereunder, as the case may be, is not consummated on or prior to the Effective Time whether as a result of the provisions of Section 2.4(g) or for any other reason (any such Parent Asset (or a portion thereof), a "Delayed Parent Asset" and any such Parent Liability (or a portion thereof), a "Delayed Parent Liability"), then, insofar as reasonably possible and subject to applicable Law, the member of the SpinCo Group retaining such Delayed Parent Asset or such Delayed Parent Liability, as the case may be, shall thereafter hold such Delayed Parent Asset or Delayed Parent Liability, as the case may be, for the use and benefit of the member of the Parent Group entitled thereto (at the expense of the member of the Parent Group entitled thereto). In addition, the member of the SpinCo Group retaining such Delayed Parent Asset or such Delayed Parent Liability shall, insofar as reasonably possible and to the extent permitted by applicable Law, treat such Delayed Parent Asset or Delayed Parent Liability in the ordinary course of business in accordance with Parent Group past practice and take such other actions as may be reasonably requested by the member of the Parent Group to which such Delayed Parent Asset is to be transferred or assigned, or which will assume such Delayed Parent Liability, as the case may be, in order to place such member of the Parent Group in a substantially similar position as if such Delayed Parent Asset or Delayed Parent Liability had been transferred, assigned or assumed and so that all the benefits and burdens relating to such Delayed Parent Asset or Delayed Parent Liability, as the case may be, including use, risk of loss, potential for gain, and dominion, control and command over such Delayed Parent Asset or Delayed Parent Liability, as the case may be, and all costs and expenses related thereto, shall inure from and after the Effective Time to the Parent Group. Except as otherwise required by applicable Law, each of Parent and SpinCo shall, and shall cause the members of its Group to, (i) treat for all Tax purposes (x) any Delayed Parent Asset as an Asset owned by the Party entitled to such Delayed Parent Asset, and (y) any Delayed Parent Liability as a Liability of the Party intended to be responsible for such Delayed Parent Liability, in each case not later than the Effective Time, and (ii) neither report nor take any Tax position (on a Tax Return or otherwise) inconsistent with such treatment.

(i) *Transfer of Delayed Parent Assets and Delayed Parent Liabilities*. If and when the Approvals or Notifications, the absence of which caused the deferral of transfer or assignment of any Delayed Parent Asset or the deferral of assumption of any Delayed Parent Liability pursuant to Section 2.4(g), are obtained or made, and, if and when any other legal impediments to the transfer or assignment of any Delayed Parent Asset or the assumption of any Delayed Parent Liability have been removed, the transfer or assignment of the applicable Delayed Parent Asset or the assumption of the applicable Delayed Parent Liability, as the case may be, shall be effected in accordance with the terms of this Agreement and/or the applicable Ancillary Agreement.

(j) *Costs for Delayed Parent Assets and Delayed Parent Liabilities*. Any member of the SpinCo Group retaining a Delayed Parent Asset or Delayed Parent Liability due to the deferral of the transfer or assignment of such Delayed Parent Asset or the deferral of the assumption of such Delayed Parent Liability, as the case may be, shall not be obligated, in connection with the foregoing, to expend any money unless the necessary funds are advanced (or otherwise made available) by Parent or the member of the Parent Group entitled to the Delayed Parent Asset or Delayed Parent Liability, other than reasonable out-of-pocket expenses, attorneys' fees and recording or similar fees, all of which shall be promptly reimbursed by Parent or the member of the Parent Group entitled to such Delayed Parent Asset or Delayed Parent Liability; provided, however, that the SpinCo Group shall not knowingly allow the loss or diminution of value of any Delayed Parent Asset without first providing the Parent Group commercially reasonable notice of such potential loss or diminution in value and affording the Parent Group a commercially reasonable opportunity to take action to prevent such loss or diminution in value.

2.5 Novation of Liabilities.

(a) *Novation of SpinCo Liabilities.*

(i) Each of Parent and SpinCo, at the request of the other, shall use its commercially reasonable efforts to obtain, or to cause to be obtained, as soon as reasonably practicable, any consent, substitution, approval or amendment required to novate or assign all SpinCo Liabilities and obtain in writing the unconditional release of each member of the Parent Group that is a party to any such arrangements, so that, in any such case, the members of the SpinCo Group shall be solely responsible for such SpinCo Liabilities; provided, however, that, except as otherwise expressly provided in this Agreement or any of the Ancillary Agreements, neither Parent nor SpinCo shall be obligated to contribute any capital or pay any consideration in any form (including providing any letter of credit, guaranty or other financial accommodation) to any Third Party from whom any such consent, substitution, approval, amendment or release is requested.

(ii) If Parent or SpinCo is unable to obtain, or to cause to be obtained, any such required consent, substitution, approval, amendment or release and the applicable member of the Parent Group continues to be bound by such agreement, lease, license or other obligation or Liability (each, an "Unreleased SpinCo Liability"), SpinCo shall, to the extent not prohibited by Law, as indemnitor, guarantor, agent or subcontractor for such member of the Parent Group, as the case may be, (x) pay, perform and discharge fully all the obligations or other Liabilities of such member of the Parent Group that constitute Unreleased SpinCo Liabilities from and after the Effective Time and (y) use its commercially reasonable efforts to effect such payment, performance or

discharge prior to any demand for such payment, performance or discharge is permitted to be made by the obligee thereunder on any member of the Parent Group. If and when any such consent, substitution, approval, amendment or release shall be obtained or the Unreleased SpinCo Liabilities shall otherwise become assignable or able to be novated, Parent shall promptly assign, or cause to be assigned, and SpinCo or the applicable SpinCo Group member shall assume, such Unreleased SpinCo Liabilities without exchange of further consideration.

(b) *Novation of Parent Liabilities.*

(i) Each of Parent and SpinCo, at the request of the other, shall use its commercially reasonable efforts to obtain, or to cause to be obtained, as soon as reasonably practicable, any consent, substitution, approval or amendment required to novate or assign all Parent Liabilities and obtain in writing the unconditional release of each member of the SpinCo Group that is a party to any such arrangements, so that, in any such case, the members of the Parent Group shall be solely responsible for such Parent Liabilities; provided, however, that, except as otherwise expressly provided in this Agreement or any of the Ancillary Agreements, neither Parent nor SpinCo shall be obligated to contribute any capital or pay any consideration in any form (including providing any letter of credit, guaranty or other financial accommodation) to any Third Party from whom any such consent, substitution, approval, amendment or release is requested.

(ii) If Parent or SpinCo is unable to obtain, or to cause to be obtained, any such required consent, substitution, approval, amendment or release and the applicable member of the SpinCo Group continues to be bound by such agreement, lease, license or other obligation or Liability (each, an "Unreleased Parent Liability"), Parent shall, to the extent not prohibited by Law, as indemnitor, guarantor, agent or subcontractor for such member of the SpinCo Group, as the case may be, (x) pay, perform and discharge fully all the obligations or other Liabilities of such member of the SpinCo Group that constitute Unreleased Parent Liabilities from and after the Effective Time and (y) use its commercially reasonable efforts to effect such payment, performance or discharge prior to any demand for such payment, performance or discharge is permitted to be made by the obligee thereunder on any member of the SpinCo Group. If and when any such consent, substitution, approval, amendment or release shall be obtained or the Unreleased Parent Liabilities shall otherwise become assignable or able to be novated, SpinCo shall promptly assign, or cause to be assigned, and Parent or the applicable Parent Group member shall assume, such Unreleased Parent Liabilities without exchange of further consideration.

2.6 Release of Guarantees. In furtherance of, and not in limitation of, the obligations set forth in Section 2.5:

(a) On or prior to the Effective Time or as soon as practicable thereafter, each of Parent and SpinCo shall, at the request of the other Party and with the reasonable cooperation of such other Party and the applicable member(s) of such other Party's Group, use commercially reasonable efforts to (i) have any member(s) of the Parent Group removed as guarantor of or

obligor for any SpinCo Liability to the extent that such guarantee or obligation relates to SpinCo Liabilities, including the removal of any Security Interest on or in any Parent Asset that may serve as collateral or security for any such SpinCo Liability; and (ii) have any member(s) of the SpinCo Group removed as guarantor of or obligor for any Parent Liability to the extent that such guarantee or obligation relates to Parent Liabilities, including the removal of any Security Interest on or in any SpinCo Asset that may serve as collateral or security for any such Parent Liability.

(b) To the extent required to obtain a release from a guarantee of:

(i) any member of the Parent Group, SpinCo shall (or shall cause a member of the SpinCo Group to) execute a guarantee agreement in the form of the existing guarantee or such other form as is agreed to by the relevant parties to such guarantee agreement, which agreement shall include the removal of any Security Interest on or in any Parent Asset that may serve as collateral or security for any SpinCo Liability, except to the extent that such existing guarantee contains representations, covenants or other terms or provisions either (x) with which SpinCo (or any member of the SpinCo Group) would be reasonably unable to comply or (y) which SpinCo (or any member of the SpinCo Group) would not reasonably be able to avoid breaching; and

(ii) any member of the SpinCo Group, Parent shall (or shall cause a member of the Parent Group to) execute a guarantee agreement in the form of the existing guarantee or such other form as is agreed to by the relevant parties to such guarantee agreement, which agreement shall include the removal of any Security Interest on or in any SpinCo Asset that may serve as collateral or security for any Parent Liability, except to the extent that such existing guarantee contains representations, covenants or other terms or provisions either (x) with which Parent (or any member of the Parent Group) would be reasonably unable to comply or (y) which Parent (or any member of the Parent Group) would not reasonably be able to avoid breaching.

(c) If Parent or SpinCo is unable to obtain, or to cause to be obtained, any such required removal or release as set forth in clauses (a) and (b) of this Section 2.6, (i) the Party or the relevant member of its Group that has assumed the Liability with respect to such guarantee shall indemnify, defend and hold harmless the guarantor or obligor against or from any Liability arising from or relating thereto in accordance with the provisions of Article IV and shall, as agent or subcontractor for such guarantor or obligor, pay, perform and discharge fully all the obligations or other Liabilities of such guarantor or obligor thereunder; and (ii) each of Parent and SpinCo, on behalf of itself and the other members of their respective Groups, agrees not to renew or extend the term of, increase any obligations under, or transfer to a Third Party, any loan, guarantee, lease, contract or other obligation for which the other Party or a member of its Group is or may be liable unless all obligations of such other Party and the members of such other Party's Group with respect thereto are thereupon terminated by documentation satisfactory in form and substance to such other Party.

2.7 Termination of Agreements.

(a) Except as set forth in Section 2.7(b), in furtherance of the releases and other provisions of Section 4.1, SpinCo and each member of the SpinCo Group, on the one hand, and Parent and each member of the Parent Group, on the other hand, hereby terminate any and all agreements, arrangements, commitments or understandings, whether or not in writing, between or among SpinCo and/or any member of the SpinCo Group, on the one hand, and Parent and/or any member of the Parent Group, on the other hand, effective as of the Effective Time. No such terminated agreement, arrangement, commitment or understanding (including any provision thereof which purports to survive termination) shall be of any further force or effect after the Effective Time. Each Party shall, at the reasonable request of the other Party, take, or cause to be taken, such other actions as may be necessary to effect the foregoing.

(b) The provisions of Section 2.7(a) shall not apply to any of the following agreements, arrangements, commitments or understandings (or to any of the provisions thereof): (i) this Agreement and the Ancillary Agreements (and each other agreement or instrument expressly contemplated by this Agreement or any Ancillary Agreement to be entered into by any of the Parties or any of the members of their respective Groups or to be continued from and after the Effective Time); (ii) any agreements, arrangements, commitments or understandings to which any Third Party is a party; (iii) any intercompany accounts payable or accounts receivable accrued as of the Effective Time that are reflected in the books and records of the Parties or otherwise documented in writing in accordance with past practices, which shall be settled in the manner contemplated by Section 2.7(c); (iv) any agreements, arrangements, commitments or understandings to which any non-wholly owned Subsidiary of Parent or SpinCo, as the case may be, is a party (it being understood that directors' qualifying shares or similar interests will be disregarded for purposes of determining whether a Subsidiary is wholly owned); and (v) any Shared Contracts.

(c) All of the intercompany accounts receivable and accounts payable between any member of the Parent Group, on the one hand, and any member of the SpinCo Group, on the other hand, outstanding as of the Effective Time shall, as promptly as practicable after the Effective Time, be repaid, settled or otherwise eliminated by means of cash payments, a dividend, capital contribution, a combination of the foregoing, or otherwise as determined by Parent in its sole and absolute discretion.

2.8 Treatment of Shared Contracts.

(a) Subject to applicable Law and without limiting the generality of the obligations set forth in Section 2.1, unless the Parties otherwise agree or the benefits of any contract, agreement, arrangement, commitment or understanding described in this Section 2.8 are expressly conveyed to the applicable Party pursuant to this Agreement or an Ancillary Agreement, any contract or agreement, a portion of which is a SpinCo Contract, but the remainder of which is a Parent Asset (any such contract or agreement, a "Shared Contract"), shall be assigned in relevant part to the applicable member(s) of the applicable Group, if so assignable, or appropriately amended prior to, on or after the Effective Time, so that each Party or the member of its Group shall, as of the Effective

Time, be entitled to the rights and benefits, and shall assume the related portion of any Liabilities, inuring to its respective businesses; provided, however, that (i) in no event shall any member of any Group be required to assign (or amend) any Shared Contract in its entirety or to assign a portion of any Shared Contract which is not assignable (or cannot be amended) by its terms (including any terms imposing consents or conditions on an assignment where such consents or conditions have not been obtained or fulfilled) and (ii) if any Shared Contract cannot be so partially assigned by its terms or otherwise, or cannot be amended or if such assignment or amendment would impair the benefit the parties thereto derive from such Shared Contract, then the Parties shall, and shall cause each of the members of their respective Groups to, take such other reasonable and permissible actions (including by providing prompt notice to the other Party with respect to any relevant claim of Liability or other relevant matters arising in connection with a Shared Contract so as to allow such other Party the ability to exercise any applicable rights under such Shared Contract) to cause a member of the SpinCo Group or the Parent Group, as the case may be, to receive the rights and benefits of that portion of each Shared Contract that relates to the SpinCo Business or the Parent Business, as the case may be (in each case, to the extent so related), as if such Shared Contract had been assigned to a member of the applicable Group (or amended to allow a member of the applicable Group to exercise applicable rights under such Shared Contract) pursuant to this Section 2.8, and to 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 2.8.

(b) Except as otherwise required by applicable Law, each of Parent and SpinCo shall, and shall cause the members of its Group to, (i) treat for all Tax purposes the portion of each Shared Contract inuring to its respective businesses as an Asset owned by, and/or a Liability of, as applicable, such Party, or the members of its Group, as applicable, not later than the Effective Time, and (ii) neither report nor take any Tax position (on a Tax Return or otherwise) inconsistent with such treatment.

(c) Nothing in this Section 2.8 shall require any member of any Group to make any non-*de minimis* payment (except to the extent advanced, assumed or agreed in advance to be reimbursed by any member of the other Group), incur any non-*de minimis* obligation or grant any non-*de minimis* concession for the benefit of any member of any other Group in order to effect any transaction contemplated by this Section 2.8.

2.9 Bank Accounts; Cash Balances.

(a) Each Party agrees to take, or cause the members of its Group to take, at the Effective Time (or such earlier time as the Parties may agree), all actions necessary to amend all contracts or agreements governing each bank and brokerage account owned by SpinCo or any other member of the SpinCo Group (collectively, the "SpinCo Accounts") and all contracts or agreements governing each bank or brokerage account owned by Parent or any other member of the Parent Group (collectively, the "Parent Accounts") so that each such SpinCo Account and Parent Account, if currently linked (whether by automatic withdrawal, automatic deposit or any other authorization to transfer funds from or to) to any Parent Account or SpinCo Account, respectively, is de-linked from such Parent Account or SpinCo Account, respectively.

(b) It is intended that, following consummation of the actions contemplated by Section 2.9(a), there will be in place a cash management process pursuant to which the SpinCo Accounts will be managed and funds collected will be transferred into one (1) or more accounts maintained by SpinCo or a member of the SpinCo Group.

(c) It is intended that, following consummation of the actions contemplated by Section 2.9(a), there will continue to be in place a cash management process pursuant to which the Parent Accounts will be managed and funds collected will be transferred into one (1) or more accounts maintained by Parent or a member of the Parent Group.

(d) With respect to any outstanding checks issued or payments initiated by Parent, SpinCo, or any of the members of their respective Groups prior to the Effective Time, such outstanding checks and payments shall be honored following the Effective Time by the Person or Group owning the account on which the check is drawn or from which the payment was initiated, respectively.

(e) As between Parent and SpinCo (and the members of their respective Groups), all payments made and reimbursements, credits, returns, or rebates received after the Effective Time by either Party (or member of its Group) that relate to a business, Asset or Liability of the other Party (or member of its Group), shall be held by such Party in trust for the use and benefit of the Party entitled thereto and, promptly following receipt by such Party of any such payment or reimbursement, credit, return or rebate such Party shall pay over, or shall cause the applicable member of its Group to pay over to the other Party the amount of such payment or reimbursement without right of set-off.

(f) The Parties acknowledge that, pursuant to existing cash settlement systems, members of the Parent Group are expected to make payments after the Effective Time to members of the SpinCo Group in respect of activity of the SpinCo Business related to the period prior to the Effective Time (such payments, the "Parent-to-SpinCo Cash Sweep Payments"), and members of the SpinCo Group are expected to make payments after the Effective Time to members of the Parent Group in respect of activity of the SpinCo Business related to the period prior to the Effective Time (such payments, the "SpinCo-to-Parent Cash Sweep Payments"). It is intended that the Parent-to-SpinCo Cash Sweep Payments belong to members of the Parent Group and not members of the Spinco Group, and that the SpinCo-to-Parent Cash Sweep Payments belong to members of the SpinCo Group and not members of the Parent Group. Accordingly, (A) promptly following receipt by a member of the SpinCo Group of any Parent-to-SpinCo Cash Sweep Payment from a member of the Parent Group (but in no event later than three (3) Business Days after such receipt), such member of the SpinCo Group shall return to such member of the Parent Group such Parent-to-SpinCo Cash Sweep Payment, in the same amount and form of currency; and (B) promptly following receipt by a member of the Parent Group of any SpinCo-to-Parent Cash Sweep Payment from a member of the SpinCo Group (but in no event later than three (3) Business Days after such receipt), such member of the Parent Group shall return to such member of the SpinCo Group such SpinCo-to-Parent Cash Sweep Payment, in the same amount and form of currency. Parent may determine that such return payments shall be settled on a net basis.

2.10 Ancillary Agreements. Effective on or prior to the Effective Time, each of Parent and SpinCo will, or will cause the applicable members of their Groups to, execute and deliver all Ancillary Agreements to which it is a party.

2.11 Disclaimer of Representations and Warranties. EACH OF PARENT (ON BEHALF OF ITSELF AND EACH MEMBER OF THE PARENT GROUP) AND SPINCO (ON BEHALF OF ITSELF AND EACH MEMBER OF THE SPINCO 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 AGREEMENT OR OTHERWISE, IS REPRESENTING OR WARRANTING IN ANY WAY AS TO: (A) THE ASSETS, BUSINESSES OR LIABILITIES TRANSFERRED OR ASSUMED AS CONTEMPLATED HEREBY OR THEREBY, (B) ANY CONSENTS OR APPROVALS REQUIRED IN CONNECTION THEREWITH, (C) THE VALUE OR FREEDOM FROM ANY SECURITY INTERESTS OF, OR ANY OTHER MATTER CONCERNING, ANY ASSETS OF SUCH PARTY, (D) THE ABSENCE OF ANY DEFENSES OR RIGHT OF SETOFF OR FREEDOM FROM COUNTERCLAIM WITH RESPECT TO ANY CLAIM OR OTHER ASSET, INCLUDING ANY ACCOUNTS RECEIVABLE, OF ANY PARTY, OR (E) THE LEGAL SUFFICIENCY OF ANY ASSIGNMENT, DOCUMENT 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 IN ANY ANCILLARY AGREEMENT, ALL SUCH ASSETS ARE BEING TRANSFERRED ON AN "AS IS," "WHERE IS" BASIS (AND, IN THE CASE OF ANY REAL PROPERTY, BY MEANS OF A QUITCLAIM OR SIMILAR FORM OF DEED OR CONVEYANCE) AND THE RESPECTIVE TRANSFEREES SHALL BEAR THE ECONOMIC AND LEGAL RISKS THAT (I) ANY CONVEYANCE WILL PROVE TO BE INSUFFICIENT TO VEST IN THE TRANSFEREE GOOD AND MARKETABLE TITLE, FREE AND CLEAR OF ANY SECURITY INTEREST, AND (II) ANY NECESSARY APPROVALS OR NOTIFICATIONS ARE NOT OBTAINED OR MADE OR THAT ANY REQUIREMENTS OF LAWS OR JUDGMENTS ARE NOT COMPLIED WITH.

2.12 SpinCo Financing Arrangements; SpinCo-to-Parent Distribution Transaction.

(a) Prior to the Effective Time and pursuant to the Separation Step Plan, (i) SpinCo will enter into one (1) or more financing arrangements and agreements (the "SpinCo Financing Arrangements"), pursuant to which it shall borrow prior to the Effective Time a principal amount of not less than one billion, six hundred fifty million dollars ($1,650,000,000) (it being understood that if SpinCo issues the Exchange Debt (as defined below) to Parent, such Exchange Debt shall be treated as part of the SpinCo Financing Arrangements) and (ii) SpinCo shall distribute, convey or otherwise transfer to Parent, in the manner determined by Parent, all cash and cash equivalents held by SpinCo or any member of the SpinCo Group (other than the SpinCo Debt Cash Amount and the SpinCo Factoring Amount), as partial consideration for the transfer of SpinCo Assets to SpinCo in the Contribution pursuant to Section 2.1 (such distribution, conveyance or transfer, the "Cash Transfer"); provided that, prior to the Effective Time, Parent, in its sole and absolute discretion, may cause SpinCo to issue to Parent, as partial consideration for the transfer of SpinCo Assets to SpinCo in the Contribution pursuant to Section 2.1, debt instruments of SpinCo on terms and conditions determined by Parent, in its sole and absolute discretion (any such debt instruments, the "Exchange Debt") to effect a debt-for-debt exchange transaction (a "Debt-For-Debt Exchange"). For purposes of determining the amount of cash and cash equivalents held by SpinCo and members of the SpinCo Group for purposes of the foregoing, cash and cash equivalents held in a currency other than U.S. dollars will be translated into U.S. dollars based on the exchange rate selected by Parent. In the event that Parent determines that SpinCo shall issue the Exchange Debt to Parent, then (A) the amount of the Cash Transfer shall be equal to (1) the amount of the Cash Transfer if the Exchange Debt had not been issued, *less* (2) the principal amount of any such Exchange Debt, and (B) Parent shall effect the Debt-For-Debt Exchange. The Cash Transfer, taken together with the issuance of the Exchange Debt, if applicable, shall be referred to as the "SpinCo-to-Parent Distribution Transaction"). Parent and SpinCo agree to take all necessary actions to assure the full release and discharge of Parent and the other members of the Parent Group from all obligations pursuant to the SpinCo Financing Arrangements as of no later than the Effective Time.

(b) Prior to the Effective Time, Parent and SpinCo shall cooperate in the preparation of all materials as may be necessary or advisable to execute the SpinCo Financing Arrangements.

(c) If the Exchange Debt is issued to Parent, then following such issuance and until the Debt-for-Debt Exchange is fully consummated, SpinCo shall, and shall cause its Subsidiaries to, and shall use its reasonable best efforts to cause its and their Representatives to, provide all cooperation that is necessary, customary or advisable and reasonably requested by Parent to assist the consummation of the Debt-for-Debt Exchange and any transactions in connection therewith including: (i) participating in meetings, presentations and due diligence sessions, (ii) assisting with the preparation of materials for presentations, memoranda and similar documents required in connection with such transactions, (iii) providing any financial information and other information about SpinCo and its Subsidiaries reasonably requested by Parent and (iv) causing its auditors to provide customary cooperation, including comfort letters and authorization letters, in connection with any such transactions.

2.13 Financial Information Certifications. Parent's disclosure controls and procedures and internal control over financial reporting (as each is contemplated by the Exchange Act) are currently applicable to SpinCo as its Subsidiary. In order to enable the principal executive officer and principal financial officer of SpinCo to make the certifications required of them under Section 302 of the Sarbanes-Oxley Act of 2002 following the Distribution in respect of any quarterly or annual fiscal period of SpinCo that begins on or prior to the Distribution Date in respect of which financial statements are not included in the Form 10 (a "Straddle Period"), Parent, on or before the date that is ten (10) days prior to the latest date on which SpinCo may file the periodic report pursuant to Section 13 of the Exchange Act for any such Straddle Period (not taking into account any possible extensions), shall provide SpinCo with one (1) or more certifications with respect to such disclosure controls and procedures and the effectiveness thereof and whether there were any changes in the internal controls over financial reporting that have materially affected or are reasonably likely to materially affect the internal control over financial reporting, which certification(s) shall (x) be with respect to the applicable Straddle Period (it being understood that no certification need be provided with respect to any period or portion of any period after the Distribution Date) and (y) be in substantially the same form as those that had been provided by officers or employees of Parent in similar certifications delivered prior to the Distribution Date, with such changes thereto as Parent may reasonably determine. Such certification(s) shall be provided by Parent (and not by any officer or employee in their individual capacity).

2.14 Transition Committee. Prior to the Effective Time, the Parties shall establish a transition committee (the "Transition Committee") that shall consist of an equal number of members from Parent and SpinCo. The Transition Committee shall be responsible for monitoring and managing all matters related to any of the transactions contemplated by this Agreement or any Ancillary Agreements. The Transition Committee shall have the authority to (a) establish one or more subcommittees from time to time as it deems appropriate or as may be described in any Ancillary Agreements, with each such subcommittee comprised of one or more members of the Transition Committee or one or more employees of either Party or any member of its respective Group, and each such subcommittee having such scope of responsibility as may be determined by the Transition Committee from time to time; (b) delegate to any such subcommittee any of the powers of the Transition Committee; and (c) combine, modify the scope of responsibility of, and disband any such subcommittee; and (d) modify or reverse any such delegations. The Transition Committee shall establish general procedures for managing the responsibilities delegated to it under this Section 2.14, and may modify such procedures from time to time. All decisions by the Transition Committee or any subcommittee thereof shall be effective only if mutually agreed by both Parties. The Parties shall use the procedures set forth in Article VII to resolve any matters as to which the Transition Committee is not able to reach a decision.

ARTICLE III
THE DISTRIBUTION

3.1 Sole and Absolute Discretion; Cooperation.

(a) Parent shall, in its sole and absolute discretion, determine the terms of the Distribution, including the form, structure and terms of any transaction(s) and/or offering(s) to effect the Distribution and the timing and conditions to the consummation of the Distribution. In addition, Parent may, at any time and from time to time until the consummation of the Distribution, modify or change the terms of the Distribution, including by accelerating or delaying the timing of the consummation of all or part of the Distribution. Nothing shall in any way limit Parent's right to terminate this Agreement or the Distribution as set forth in Article IX or alter the consequences of any such termination from those specified in Article IX.

(b) SpinCo shall cooperate with Parent to accomplish the Distribution and shall, at Parent's direction, promptly take any and all actions, necessary or desirable to effect the Distribution, including in respect of the registration under the Exchange Act of SpinCo Shares on the Form 10. Parent shall select any investment bank or manager in connection with the Distribution, as well as any financial printer, solicitation and/or exchange agent and financial, legal, accounting and other advisors for Parent. SpinCo and Parent, as the case may be, will provide to the Distribution Agent any information required in order to complete the Distribution.

3.2 Actions Prior to the Distribution. Prior to the Effective Time and subject to the terms and conditions set forth herein, the Parties shall take, or cause to be taken, the following actions in connection with the Distribution:

(a) *Notice to NYSE*. Parent shall, to the extent possible, give the NYSE not less than ten (10) days' advance notice of the Record Date in compliance with Rule 10b-17 under the Exchange Act.

(b) *SpinCo Certificate of Incorporation and SpinCo Bylaws*. On or prior to the Distribution Date, Parent and SpinCo shall take all necessary actions so that, as of the Effective Time, the SpinCo Certificate of Incorporation and the SpinCo Bylaws shall become the certificate of incorporation and bylaws of SpinCo, respectively.

(c) *SpinCo Directors and Officers*. On or prior to the Distribution Date, Parent and SpinCo shall take all necessary actions so that as of the Effective Time: (i) the directors and executive officers of SpinCo shall be those set forth in the Information Statement made available to the Record Holders prior to the Distribution Date, unless otherwise agreed by the Parties; (ii) each individual referred to in clause (i) shall have resigned from his or her position, if any, as a member of the Parent Board and/or as an executive officer of Parent; and (iii) SpinCo shall have such other officers as SpinCo shall appoint.

(d) *Selected Stock Exchange Listing*. SpinCo shall prepare and file, and shall use its reasonable best efforts to have approved, an application for the listing of the SpinCo Shares to be distributed in the Distribution on the Selected Stock Exchange, subject to official notice of distribution.

(e) *Securities Law Matters*. SpinCo shall file any amendments or supplements to the Form 10 as may be necessary or advisable in order to cause the Form 10 to become and remain effective as required by the SEC or federal, state or other applicable securities Laws. Parent and SpinCo shall cooperate in preparing, filing with the SEC and causing to become effective registration statements or amendments thereof which are required to reflect the establishment of, or amendments to, any employee benefit and other plans necessary or advisable in connection with the transactions contemplated by this Agreement and the Ancillary Agreements. Parent and SpinCo will prepare, and SpinCo will, to the extent required under applicable Law, file with the SEC, any such documentation and any requisite no-action letters which Parent determines are necessary or desirable to effectuate the Distribution, and Parent and SpinCo shall each use its reasonable best efforts to obtain all necessary approvals from the SEC with respect thereto as soon as practicable. Parent and SpinCo shall take all such action as may be necessary or appropriate under the securities or blue sky laws of the United States (and any comparable Laws under any foreign jurisdiction) in connection with the Distribution.

(f) *Availability of Information Statement*. Parent shall, as soon as is reasonably practicable after the Form 10 is declared effective under the Exchange Act and the Parent Board has approved the Distribution, cause the Information Statement to be made available to the Record Holders.

(g) *The Distribution Agent*. Parent shall enter into a distribution agent agreement with the Distribution Agent or otherwise provide instructions to the Distribution Agent regarding the Distribution.

(h) *Stock-Based Employee Benefit Plans*. Parent and SpinCo shall take all actions as may be necessary to approve the grants of adjusted equity awards by Parent (in respect of Parent Shares) and SpinCo (in respect of SpinCo Shares) in connection with the Distribution in order to satisfy the requirements of Rule 16b-3 under the Exchange Act.

3.3 Conditions to the Distribution.

(a) The consummation of the Distribution will be subject to the satisfaction, or waiver by Parent in its sole and absolute discretion, of the following conditions:

(i) The SEC shall have declared effective the Form 10; no order suspending the effectiveness of the Form 10 shall be in effect; and no proceedings for such purposes shall have been instituted or threatened by the SEC;

(ii) The Information Statement shall have been made available to the Record Holders;

(iii) Parent shall have received an opinion from Parent's outside tax counsel satisfactory to the Parent Board, regarding the qualification of the Contribution and the Distribution, taken together, as a "reorganization" within the meaning of Sections 368(a)(1)(D) and 355 of the Code, and such opinion shall not have been withdrawn or rescinded;

(iv) Parent shall have received a private letter ruling from the U.S. Internal Revenue Service to the effect that the Contribution and the Distribution, taken together, constitute a "reorganization" within the meaning of Sections 368(a)(1)(D) and 355 of the Code, and such private letter ruling shall not have been withdrawn or rescinded;

(v) The transfer of the SpinCo Assets (other than any Delayed SpinCo Asset) and SpinCo Liabilities (other than any Delayed SpinCo Liability) contemplated to be transferred from Parent to SpinCo on or prior to the Distribution shall have occurred as contemplated by Section 2.1, and the transfer of the Parent Assets (other than any Delayed Parent Asset) and Parent Liabilities (other than any Delayed Parent Liability) contemplated to be transferred from SpinCo to Parent on or prior to the Distribution Date shall have occurred as contemplated by Section 2.1, in each case pursuant to the Separation Step Plan;

(vi) An independent appraisal firm acceptable to Parent shall have delivered one (1) or more opinions to the Parent Board confirming the solvency and financial viability of Parent prior to the Distribution and of Parent and SpinCo after consummation of the Distribution, and such opinions shall be acceptable to Parent in form and substance in Parent's sole discretion and such opinions shall not have been withdrawn or rescinded;

(vii) The actions and filings necessary or appropriate under applicable U.S. federal, U.S. state or other securities Laws or blue sky laws and the rules and regulations thereunder shall have been taken or made, and, where applicable, have become effective or been accepted by the applicable Governmental Authority;

(viii) Each of the Ancillary Agreements shall have been duly executed and delivered by the applicable parties thereto;

(ix) No order, injunction or decree issued by any Governmental Authority of competent jurisdiction or other legal restraint or prohibition preventing the consummation of the Separation, the Distribution or any of the transactions related thereto shall be pending or in effect;

(x) The SpinCo Shares to be distributed to the Parent shareholders in the Distribution shall have been accepted for listing on the Selected Stock Exchange, subject to official notice of distribution;

(xi) SpinCo shall have consummated the SpinCo Financing Arrangements in accordance with Section 2.12(a), and Parent shall be satisfied in its sole and absolute discretion that, as of the Effective Time, it shall have no Liability whatsoever under the SpinCo Financing Arrangements;

(xii) The SpinCo-to-Parent Distribution Transaction shall have occurred in accordance with Section 2.12(a); and

(xiii) No other events or developments shall exist or shall have occurred that, in the judgment of the Parent Board, in its sole and absolute discretion, makes it inadvisable to effect the Separation, the Distribution or the transactions contemplated by this Agreement or any Ancillary Agreement.

(b) The foregoing conditions are for the sole benefit of Parent and shall not give rise to or create any duty on the part of Parent or the Parent Board to waive or not waive any such condition or in any way limit Parent's right to terminate this Agreement as set forth in Article IX or alter the consequences of any such termination from those specified in Article IX. Any determination made by the Parent Board prior to the Distribution concerning the satisfaction or waiver of any or all of the conditions set forth in Section 3.3(a) shall be conclusive and binding on the Parties. If Parent waives any material condition, it shall promptly issue a press release disclosing such fact and file a Current Report on Form 8-K with the SEC describing such waiver.

3.4 The Distribution.

(a) Subject to Section 3.3, on or prior to the Effective Time, SpinCo will deliver to the Distribution Agent, for the benefit of the Record Holders, book-entry transfer authorizations for such number of the outstanding SpinCo Shares as is necessary to effect the Distribution, and shall cause the transfer agent for the Parent Shares to instruct the Distribution Agent to distribute at the Effective Time the appropriate number of SpinCo Shares to each such holder or designated transferee or transferees of such holder by way of direct registration in book-entry form. SpinCo will not issue paper stock certificates in respect of the SpinCo Shares. The Distribution shall be effective at the Effective Time.

(b) Subject to Sections 3.3 and 3.4(c), each Record Holder will be entitled to receive in the Distribution one (1) SpinCo Share for every five (5) Parent Shares held by such Record Holder on the Record Date, rounded down to the nearest whole number.

(c) No fractional shares will be distributed or credited to book-entry accounts in connection with the Distribution, and any such fractional share interests to which a Record Holder would otherwise be entitled shall not entitle such Record Holder to vote or to any other rights as a stockholder of SpinCo. In lieu of any such fractional shares, each Record Holder who, but for the provisions of this Section 3.4(c), would be entitled to receive a fractional share interest of a SpinCo Share pursuant to the Distribution, shall be paid cash, without any interest thereon, as hereinafter provided. As soon as practicable after the Effective Time, Parent shall direct the Distribution Agent to determine the number of whole and fractional SpinCo Shares allocable to each Record Holder, to aggregate all such fractional shares into whole shares, and to sell the whole shares obtained thereby in the open market at the then-prevailing prices on behalf of each Record Holder who otherwise would be entitled to receive fractional share interests (with the Distribution Agent, in its sole and absolute discretion, determining when, how and through which broker-dealer and at what price to make such sales), and to cause to be distributed to each such Record Holder, in lieu of any fractional share, such Record Holder's or owner's ratable share of the total proceeds of such sale, after deducting any Taxes required to be withheld and applicable transfer Taxes, and after deducting the costs and expenses of such sale and

distribution, including brokers fees and commissions. None of Parent, SpinCo or the Distribution Agent will be required to guarantee any minimum sale price for the fractional SpinCo Shares sold in accordance with this Section 3.4(c). Neither Parent nor SpinCo will be required to pay any interest on the proceeds from the sale of fractional shares. Neither the Distribution Agent nor the broker-dealers through which the aggregated fractional shares are sold shall be Affiliates of Parent or SpinCo. Solely for purposes of computing fractional share interests pursuant to this Section 3.4(c) and Section 3.4(d), the beneficial owner of Parent Shares held of record in the name of a nominee in any nominee account shall be treated as the Record Holder with respect to such shares.

(d) Any SpinCo Shares or cash in lieu of fractional shares with respect to SpinCo Shares that remain unclaimed by any Record Holder one hundred and eighty (180) days after the Distribution Date shall be delivered to SpinCo, and SpinCo or its transfer agent on its behalf shall hold such SpinCo Shares and cash for the account of such Record Holder, and the Parties agree that all obligations to provide such SpinCo Shares and cash, if any, in lieu of fractional share interests shall be obligations of SpinCo, subject in each case to applicable escheat or other abandoned property Laws, and Parent shall have no Liability with respect thereto.

(e) Until the SpinCo Shares are duly transferred in accordance with this Section 3.4 and applicable Law, from and after the Effective Time, SpinCo will regard the Persons entitled to receive such SpinCo Shares as record holders of SpinCo Shares in accordance with the terms of the Distribution without requiring any action on the part of such Persons. SpinCo agrees that, subject to any transfers of such shares, from and after the Effective Time (i) each such holder will be entitled to receive all dividends, if any, payable on, and exercise voting rights and all other rights and privileges with respect to, the SpinCo Shares then held by such holder, and (ii) each such holder will be entitled, without any action on the part of such holder, to receive evidence of ownership of the SpinCo Shares then held by such holder.

3.5 SpinCo Shares Issued to Parent Subsidiary. In the event that any SpinCo Shares are distributed in the Distribution to a Subsidiary of Parent that is a member of the Parent Group, then, as promptly as practicable following such Subsidiary's receipt of such SpinCo Shares, Parent shall acquire such SpinCo Shares in exchange for an amount of cash equal to the fair market value of such SpinCo Shares as of the Distribution Date, as determined by Parent. As promptly as practicable following such acquisition, Parent shall transfer such SpinCo Shares to SpinCo for no consideration, and such SpinCo Shares shall be cancelled and cease to be outstanding. The Parties acknowledge and agree that, for U.S. federal income tax purposes, (a) the transitory existence of such SpinCo Shares is intended to be disregarded, and (b) Parent's payment of cash to such Subsidiary is intended to be treated as a distribution of property described in Section 301 of the Code.

4.1 Release of Pre-Distribution Claims.

(a) *SpinCo Release of Parent.* Except as provided in Sections 4.1(c) and 4.1(d), effective as of the Effective Time, SpinCo does hereby, for itself and each other member of the SpinCo Group, and their respective successors and assigns, and, to the extent permitted by Law, all Persons who at any time prior to the Effective Time have been stockholders, directors, officers, agents or employees of any member of the SpinCo Group (in each case, in their respective capacities as such), remise, release and forever discharge (i) Parent and the members of the Parent Group, and their respective successors and assigns, (ii) all Persons who at any time prior to the Effective Time have been stockholders, directors, officers, agents or employees of any member of the Parent Group (in each case, in their respective capacities as such), and their respective heirs, executors, administrators, successors and assigns, and (iii) all Persons who at any time prior to the Effective Time are or have been stockholders, directors, officers, agents or employees of a Transferred Entity and who are not, as of immediately following the Effective Time, directors, officers or employees of SpinCo or a member of the SpinCo Group, in each case from: (A) all SpinCo Liabilities, (B) all Liabilities arising from or in connection with the transactions and all other activities to implement the Separation and the Distribution and (C) all Liabilities arising from or in connection with actions, inactions, events, omissions, conditions, facts or circumstances occurring or existing prior to the Effective Time (whether or not such Liabilities cease being contingent, mature, become known, are asserted or foreseen, or accrue, in each case before, at or after the Effective Time), in each case to the extent relating to, arising out of or resulting from the SpinCo Business, the SpinCo Assets or the SpinCo Liabilities.

(b) *Parent Release of SpinCo.* Except as provided in Sections 4.1(c) and 4.1(d), effective as of the Effective Time, Parent does hereby, for itself and each other member of the Parent Group, and their respective successors and assigns, and, to the extent permitted by Law, all Persons who at any time prior to the Effective Time have been stockholders, directors, officers, agents or employees of any member of the Parent Group (in each case, in their respective capacities as such), remise, release and forever discharge (i) SpinCo and the members of the SpinCo Group and their respective successors and assigns, and (ii) all Persons who at any time prior to the Effective Time have been stockholders, directors, officers, agents or employees of any member of the SpinCo Group (in each case, in their respective capacities as such), and their respective heirs, executors, administrators, successors and assigns, from (A) all Parent Liabilities, (B) all Liabilities arising from or in connection with the transactions and all other activities to implement the Separation and the Distribution and (C) all Liabilities arising from or in connection with actions, inactions, events, omissions, conditions, facts or circumstances occurring or existing prior to the Effective Time (whether or not such Liabilities cease being contingent, mature, become known, are asserted or foreseen, or accrue, in each case before, at or after the Effective Time), in each case to the extent relating to, arising out of or resulting from the Parent Business, the Parent Assets or the Parent Liabilities.

(c) *Obligations Not Affected.* Nothing contained in Section 4.1(a) or 4.1(b) shall impair any right of any Person to enforce this Agreement, any Ancillary Agreement or any agreements, arrangements, commitments or understandings that are specified in Section 2.7(b) as not to terminate as of the Effective Time, in each case in accordance with its terms. Nothing contained in Section 4.1(a) or 4.1(b) shall release any Person from:

(i) any Liability provided in or resulting from any agreement among any members of the Parent Group or any members of the SpinCo Group that is specified in Section 2.7(b) as not to terminate as of the Effective Time, or any other Liability specified in Section 2.7(b) as not to terminate as of the Effective Time;

(ii) any Liability, contingent or otherwise, assumed, transferred, assigned or allocated to the Group of which such Person is a member in accordance with, or any other Liability of any member of any Group under, this Agreement or any Ancillary Agreement;

(iii) any Liability for the sale, lease, construction or receipt of goods, property or services purchased, obtained or used in the ordinary course of business by a member of one Group from a member of the other Group prior to the Effective Time;

(iv) any Liability that the Parties may have with respect to indemnification or contribution or other obligation pursuant to this Agreement, any Ancillary Agreement or otherwise for claims brought against the Parties by Third Parties, which Liability shall be governed by the provisions of this Article IV and Article V and, if applicable, the appropriate provisions of the Ancillary Agreements; or

(v) any Liability the release of which would result in the release of any Person other than a Person released pursuant to this Section 4.1.

In addition, nothing contained in Section 4.1(a) shall release any member of the Parent Group from honoring its existing obligations to indemnify any director, officer or employee of SpinCo who was a director, officer or employee of any member of the Parent Group on or prior to the Effective Time, to the extent such director, officer or employee becomes a named defendant in any Action with respect to which such director, officer or employee was entitled to such indemnification pursuant to such existing obligations; it being understood that, if the underlying obligation giving rise to such Action is a SpinCo Liability, SpinCo shall indemnify Parent for such Liability (including Parent's costs to indemnify the director, officer or employee) in accordance with the provisions set forth in this Article IV.

(d) *No Claims.* SpinCo shall not make, and shall not permit any other member of the SpinCo Group to make, any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution or any indemnification, against Parent or any other member of the Parent Group, or any other Person released pursuant to Section 4.1(a), with respect to any Liabilities released pursuant to Section 4.1(a). Parent shall not make, and shall not permit any other member of the Parent Group to make, any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution or any indemnification, against SpinCo or any other member of the SpinCo Group, or any other Person released pursuant to Section 4.1(b), with respect to any Liabilities released pursuant to Section 4.1(b).

(e) *Execution of Further Releases.* At any time at or after the Effective Time, at the request of either Party, the other Party shall cause each member of its respective Group to execute and deliver releases reflecting the provisions of this Section 4.1.

4.2 Indemnification by SpinCo. Except as otherwise specifically set forth in this Agreement or in any Ancillary Agreement, to the fullest extent permitted by Law, SpinCo shall, and shall cause the other members of the SpinCo Group to, indemnify, defend and hold harmless Parent, each member of the Parent Group and each of their respective past, present and future directors, officers, employees and agents, in each case in their respective capacities as such, and each of the heirs, executors, successors and assigns of any of the foregoing (collectively, the "Parent Indemnitees"), from and against any and all Liabilities of the Parent Indemnitees relating to, arising out of or resulting from, directly or indirectly, any of the following items (without duplication):

(a) any SpinCo Liability;

(b) any failure of SpinCo, any other member of the SpinCo Group or any other Person to pay, perform or otherwise promptly discharge any SpinCo Liabilities in accordance with their terms, whether prior to, on or after the Effective Time;

(c) any breach by SpinCo or any other member of the SpinCo Group of this Agreement or any of the Ancillary Agreements;

(d) except to the extent it relates to a Parent Liability, any guarantee, indemnification or contribution obligation, surety bond or other credit support agreement, arrangement, commitment or understanding for the benefit of any member of the SpinCo Group by any member of the Parent Group that survives following the Distribution; and

(e) any untrue statement or alleged untrue statement of a material fact or omission or alleged omission to state a material fact required to be stated therein or necessary to make the statements therein not misleading, with respect to all information contained in the Form 10, the Information Statement (as amended or supplemented if SpinCo shall have furnished any amendments or supplements thereto) or any other Disclosure Document, other than the matters described in clause (e) of Section 4.3.

4.3 Indemnification by Parent. Except as otherwise specifically set forth in this Agreement or in any Ancillary Agreement, to the fullest extent permitted by Law, Parent shall, and shall cause the other members of the Parent Group to, indemnify, defend and hold harmless SpinCo, each member of the SpinCo Group and each of their respective past, present and future directors, officers, employees or agents, in each case in their respective capacities as such, and each of the heirs, executors, successors and assigns of any of the foregoing (collectively, the "SpinCo Indemnitees"), from and against any and all Liabilities of the SpinCo Indemnitees relating to, arising out of or resulting from, directly or indirectly, any of the following items (without duplication):

(a) any Parent Liability;

(b) any failure of Parent, any other member of the Parent Group or any other Person to pay, perform or otherwise promptly discharge any Parent Liabilities in accordance with their terms, whether prior to, on or after the Effective Time;

(c) any breach by Parent or any other member of the Parent Group of this Agreement or any of the Ancillary Agreements;

(d) except to the extent it relates to a SpinCo Liability, any guarantee, indemnification or contribution obligation, surety bond or other credit support agreement, arrangement, commitment or understanding for the benefit of any member of the Parent Group by any member of the SpinCo Group that survives following the Distribution; and

(e) any untrue statement or alleged untrue statement of a material fact or omission or alleged omission to state a material fact required to be stated therein or necessary to make the statements therein not misleading, with respect to statements made explicitly in Parent's name in the Form 10, the Information Statement (as amended or supplemented if SpinCo shall have furnished any amendments or supplements thereto) or any other Disclosure Document; it being agreed that the statements set forth on Schedule 4.3(e) shall be the only statements made explicitly in Parent's name in the Form 10, the Information Statement or any other Disclosure Document, and all other information contained in the Form 10, the Information Statement or any other Disclosure Document shall be deemed to be information supplied by SpinCo.

4.4 Indemnification Obligations Net of Insurance Proceeds and Other Amounts.

(a) The Parties intend that any Liability subject to indemnification, contribution or reimbursement pursuant to this Article IV or Article V will be net of Insurance Proceeds or other amounts actually recovered (net of any out-of-pocket costs or expenses incurred in the collection thereof) from any Person by or on behalf of the Indemnitee in respect of any indemnifiable Liability. Accordingly, the amount which either Party (an "Indemnifying Party") is required to pay to any Person entitled to indemnification or contribution hereunder (an "Indemnitee") will be reduced by any Insurance Proceeds or other amounts actually recovered (net of any out-of-pocket costs or expenses incurred in the collection thereof) from any Person by or on behalf of the Indemnitee in respect of the related Liability. If an Indemnitee receives a payment (an "Indemnity Payment") required by this Agreement from an Indemnifying Party in respect of any Liability and subsequently receives Insurance Proceeds or any other amounts in respect of such Liability, then within ten (10) calendar days of receipt of such Insurance Proceeds, the Indemnitee will pay to the Indemnifying Party an amount equal to the excess of the Indemnity Payment received over the amount of the Indemnity Payment that would have been due if the Insurance Proceeds or such other amounts (net of any out-of-pocket costs or expenses incurred in the collection thereof) had been received, realized or recovered before the Indemnity Payment was made.

(b) The Parties agree that an insurer that would otherwise be obligated to pay any claim shall not be relieved of the responsibility with respect thereto or, solely by virtue of any provision contained in this Agreement or any Ancillary Agreement, have any subrogation rights with respect thereto, it being understood that no insurer or any other Third Party shall be entitled to a "windfall" (i.e., a benefit they would not be entitled to receive in the absence of the indemnification provisions) by virtue of the indemnification and contribution provisions hereof. Each Party shall, and shall cause the members of its Group to, use commercially reasonable efforts (taking into account the probability of success on the merits and the cost of expending such efforts, including attorneys' fees and expenses) to collect or recover any Insurance Proceeds that may be collectible or recoverable respecting the Liabilities for which indemnification or contribution may be available under this Article IV. Notwithstanding the foregoing, an Indemnifying Party may not delay making any indemnification payment required under the terms of this Agreement, or otherwise satisfying any indemnification obligation, pending the outcome of any Action to collect or recover Insurance Proceeds, and an Indemnitee need not attempt to collect any Insurance Proceeds prior to making a claim for indemnification or contribution or receiving any Indemnity Payment otherwise owed to it under this Agreement or any Ancillary Agreement.

4.5 Procedures for Indemnification of Third-Party Claims.

(a) *Notice of Claims.* If, at or following the Effective Time, an Indemnitee shall receive notice or otherwise learn of the assertion by a Person (including any Governmental Authority) who is not a member of the Parent Group or the SpinCo Group of any claim or of the commencement by any such Person of any Action (collectively, a "Third-Party Claim") with respect to which an Indemnifying Party may be obligated to provide indemnification to such Indemnitee pursuant to Section 4.2 or 4.3, or any other Section of this Agreement or any Ancillary Agreement, such Indemnitee shall give such Indemnifying Party written notice thereof as soon as practicable, but in any event within fourteen (14) days (or sooner if the nature of the Third-Party Claim so requires) after becoming aware of such Third-Party Claim. Any such notice shall describe the Third-Party Claim in reasonable detail, including the facts and circumstances giving rise to such claim for indemnification, and include copies of all notices and documents (including court papers) received by the Indemnitee relating to the Third-Party Claim. Notwithstanding the foregoing, the failure of an Indemnitee to provide notice in accordance with this Section 4.5(a) shall not relieve an Indemnifying Party of its indemnification obligations under this Agreement, except to the extent to which the Indemnifying Party is actually prejudiced by the Indemnitee's failure to provide notice in accordance with this Section 4.5(a).

(b) *Control of Defense.* An Indemnifying Party may elect to defend (and seek to settle or compromise), at its own expense and with its own counsel, any Third-Party Claim; provided that, prior to the Indemnifying Party assuming and controlling the defense of such Third-Party Claim, it shall first confirm to the Indemnitee in writing that, assuming the facts presented to the Indemnifying Party by the Indemnitee are true, the Indemnifying Party shall indemnify the Indemnitee for any such damages to the extent resulting from, or arising out of, such Third-Party-Claim. Notwithstanding the foregoing, if the Indemnifying Party assumes such defense and, in the course of defending such Third-Party Claim, (i) the Indemnifying Party discovers that the facts presented at the time the Indemnifying Party acknowledged its indemnification obligation in respect of such Third-Party Claim were not true in any or all

material respects and (ii) such untruth provides a reasonable basis for asserting that the Indemnifying Party does not have an indemnification obligation in respect of such Third-Party Claim, then (A) the Indemnifying Party shall not be bound by such acknowledgment, (B) the Indemnifying Party shall promptly thereafter provide the Indemnitee written notice of its assertion that it does not have an indemnification obligation in respect of such Third-Party Claim and (C) the Indemnitee shall have the right to assume the defense of such Third-Party Claim. Within thirty (30) days after the receipt of a notice from an Indemnitee in accordance with Section 4.5(a) (or sooner, if the nature of the Third-Party Claim so requires), the Indemnifying Party shall provide written notice to the Indemnitee indicating whether the Indemnifying Party shall assume responsibility for defending the Third-Party Claim. If an Indemnifying Party elects not to assume responsibility for defending any Third-Party Claim or fails to notify an Indemnitee of its election within thirty (30) days after receipt of the notice from an Indemnitee as provided in Section 4.5(a), then the Indemnitee that is the subject of such Third-Party Claim shall be entitled to continue to conduct and control the defense of such Third-Party Claim.

(c) *Allocation of Defense Costs*. If an Indemnifying Party has elected to assume the defense of a Third-Party Claim, then such Indemnifying Party shall be solely liable for all fees and expenses incurred by it in connection with the defense of such Third-Party Claim and shall not be entitled to seek any indemnification or reimbursement from the Indemnitee for any such fees or expenses incurred by the Indemnifying Party during the course of the defense of such Third-Party Claim by such Indemnifying Party, regardless of any subsequent decision by the Indemnifying Party to reject or otherwise abandon its assumption of such defense. If an Indemnifying Party elects not to assume responsibility for defending any Third-Party Claim or fails to notify an Indemnitee of its election within thirty (30) days after receipt of a notice from an Indemnitee as provided in Section 4.5(a), and the Indemnitee conducts and controls the defense of such Third-Party Claim and the Indemnifying Party has an indemnification obligation with respect to such Third-Party Claim, then the Indemnifying Party shall be liable for all reasonable and documented fees and expenses incurred by the Indemnitee in connection with the defense of such Third-Party Claim.

(d) *Right to Monitor and Participate.* An Indemnitee that does not conduct and control the defense of any Third-Party Claim, or an Indemnifying Party that does not elect to defend any Third-Party Claim as contemplated hereby, nevertheless shall have the right to employ separate counsel (including local counsel as necessary) of its own choosing to monitor and participate in (but not control) the defense of any Third-Party Claim for which it is a potential Indemnitee or Indemnifying Party, but the fees and expenses of such counsel shall be at the expense of such Indemnitee or Indemnifying Party, as the case may be, and the provisions of Section 4.5(c) shall not apply to such fees and expenses. Notwithstanding the foregoing, but subject to Sections 6.7 and 6.8, such Party shall cooperate with the Party entitled to conduct and control the defense of such Third-Party Claim in such defense and make available to the controlling Party, at the non-controlling Party's expense, all witnesses, information and materials in such Party's possession or under such Party's control relating thereto as are reasonably required by the controlling Party. In addition to the foregoing, if any outside legal counsel to the Indemnitee reasonably determines in good faith that such Indemnitee and the Indemnifying Party have actual or potential differing defenses or conflicts of interest between them that make joint representation inappropriate, then the Indemnitee shall have the right to employ one firm of separate counsel (including local counsel as necessary) and to participate in (but not control) the defense, compromise, or settlement thereof, and in such case the Indemnifying Party shall bear the reasonable and documented fees and expenses of such counsel for all Indemnitees.

(e) *No Settlement.* Neither Party may settle or compromise any Third-Party Claim for which either Party is seeking to be indemnified hereunder without the prior written consent of the other Party, which consent may not be unreasonably withheld, unless such settlement or compromise is solely for monetary damages that are fully payable by the settling or compromising Party, does not involve any admission, finding or determination of wrongdoing or violation of Law by the other Party and provides for a full, unconditional and irrevocable release of the other Party from all Liability in connection with the Third-Party Claim. The Parties hereby agree that if a Party delivers the other Party a written notice containing a proposal to settle or compromise a Third-Party Claim for which either Party is seeking to be indemnified hereunder and the Party receiving such proposal does not respond in any manner to the Party presenting such proposal within ten (10) business days (or within any such shorter time period that may be required by applicable Law or court order) of receipt of such proposal, then the Party receiving such proposal shall be deemed to have consented to the terms of such proposal.

(f) *Tax Matters Agreement Governs.* The above provisions of this Section 4.5 and the provisions of Section 4.6 do not apply to Taxes (it being understood and agreed that Taxes and Tax matters, including the control of Tax-related proceedings, shall be governed by the Tax Matters Agreement). In the case of any conflict between this Agreement and the Tax Matters Agreement in relation to any matters addressed by the Tax Matters Agreement, the Tax Matters Agreement shall prevail.

4.6 Additional Matters.

(a) *Timing of Payments.* Indemnification or contribution payments in respect of any Liabilities for which an Indemnitee is entitled to indemnification or contribution under this Article IV shall be paid reasonably promptly (but in any event within thirty (30) days of the final determination of the amount that the Indemnitee is entitled to indemnification or contribution under this Article IV) by the Indemnifying Party to the Indemnitee as such Liabilities are incurred upon demand by the Indemnitee, including reasonably satisfactory documentation setting forth the basis for the amount of such indemnification or contribution payment, including documentation with respect to calculations made and consideration of any Insurance Proceeds that actually reduce the amount of such Liabilities. The indemnity and contribution provisions contained in this Article IV shall remain operative and in full force and effect, regardless of (i) any investigation made by or on behalf of any Indemnitee and (ii) the knowledge by the Indemnitee of Liabilities for which it might be entitled to indemnification hereunder.

(b) *Notice of Direct Claims.* Any claim for indemnification or contribution under this Agreement or any Ancillary Agreement that does not result from a Third-Party Claim shall be asserted by written notice given by the Indemnitee to the applicable Indemnifying Party. Such Indemnifying Party shall have a period of thirty (30) days after the receipt of such notice within which to respond thereto. If such Indemnifying Party does not respond within such thirty (30)-day period, such specified claim shall be conclusively deemed a Liability of the Indemnifying Party under this Section 4.6(b) or, in the case of any written notice in which the

amount of the claim (or any portion thereof) is estimated, on such later date when the amount of the claim (or such portion thereof) becomes finally determined. If such Indemnifying Party does not respond within such thirty (30)-day period or rejects such claim in whole or in part, such Indemnitee shall, subject to the provisions of Article VII, be free to pursue such remedies as may be available to such party as contemplated by this Agreement and the Ancillary Agreements, as applicable, without prejudice to its continuing rights to pursue indemnification or contribution hereunder.

(c) *Pursuit of Claims Against Third Parties.* If (i) a Party incurs any Liability arising out of this Agreement or any Ancillary Agreement; (ii) an adequate legal or equitable remedy is not available for any reason against the other Party to satisfy the Liability incurred by the incurring Party; and (iii) a legal or equitable remedy may be available to the other Party against a Third Party for such Liability, then the other Party shall use its commercially reasonable efforts to cooperate with the incurring Party, at the incurring Party's expense, to permit the incurring Party to obtain the benefits of such legal or equitable remedy against the Third Party.

(d) *Subrogation.* In the event of payment by or on behalf of any Indemnifying Party to any Indemnitee in connection with any Third-Party Claim, such Indemnifying Party shall be subrogated to and shall stand in the place of such Indemnitee as to any events or circumstances in respect of which such Indemnitee may have any right, defense or claim relating to such Third-Party Claim against any claimant or plaintiff asserting such Third-Party Claim or against any other Person. Such Indemnitee shall cooperate with such Indemnifying Party in a reasonable manner, and at the cost and expense of such Indemnifying Party, in prosecuting any subrogated right, defense or claim.

(e) *Substitution.* In the event of an Action in which the Indemnifying Party is not a named defendant, if either the Indemnitee or Indemnifying Party shall so request, the Parties shall endeavor to substitute the Indemnifying Party for the named defendant. If such substitution or addition cannot be achieved for any reason or is not requested, the named defendant shall allow the Indemnifying Party to manage the Action as set forth in Section 4.5 and this Section 4.6, and the Indemnifying Party shall fully indemnify the named defendant against all reasonable costs of defending the Action (including court costs, sanctions imposed by a court, attorneys' fees, experts fees and all other external expenses), the costs of any judgment or settlement and the cost of any interest or penalties relating to any judgment or settlement.

4.7 Right of Contribution.

(a) *Contribution.* If any right of indemnification contained in Section 4.2 or Section 4.3 is held unenforceable or is unavailable for any reason, or is insufficient to hold harmless an Indemnitee in respect of any Liability for which such Indemnitee is entitled to indemnification hereunder, then the Indemnifying Party shall contribute to the amounts paid or payable by the Indemnitees as a result of such Liability (or actions in respect thereof) in such proportion as is appropriate to reflect the relative fault of the Indemnifying Party and the members of its Group, on the one hand, and the Indemnitees entitled to contribution, on the other hand, as well as any other relevant equitable considerations.

(b) *Allocation of Relative Fault.* Solely for purposes of determining relative fault pursuant to this Section 4.7: (i) any fault associated with the business conducted with the Delayed SpinCo Assets or Delayed SpinCo Liabilities (except for the gross negligence or intentional misconduct of a member of the Parent Group) or with the ownership, operation or activities of the SpinCo Business prior to the Effective Time shall be deemed to be the fault of SpinCo and the other members of the SpinCo Group, and no such fault shall be deemed to be the fault of Parent or any other member of the Parent Group; (ii) any fault associated with the business conducted with Delayed Parent Assets or Delayed Parent Liabilities (except for the gross negligence or intentional misconduct of a member of the SpinCo Group) shall be deemed to be the fault of Parent and the other members of the Parent Group, and no such fault shall be deemed to be the fault of SpinCo or any other member of the SpinCo Group; and (iii) any fault associated with the ownership, operation or activities of the Parent Business prior to the Effective Time shall be deemed to be the fault of Parent and the other members of the Parent Group, and no such fault shall be deemed to be the fault of SpinCo or any other member of the SpinCo Group.

4.8 Covenant Not to Sue. Each Party hereby covenants and agrees that none of it, the members of such Party's Group or any Person claiming through it shall bring suit or otherwise assert any claim against any Indemnitee, or assert a defense against any claim asserted by any Indemnitee, before any court, arbitrator, mediator or administrative agency anywhere in the world, alleging that: (a) the assumption of any SpinCo Liabilities by SpinCo or a member of the SpinCo Group on the terms and conditions set forth in this Agreement and the Ancillary Agreements is void or unenforceable for any reason; (b) the retention of any Parent Liabilities by Parent or a member of the Parent Group on the terms and conditions set forth in this Agreement and the Ancillary Agreements is void or unenforceable for any reason or (c) the provisions of this Article IV are void or unenforceable for any reason.

4.9 Remedies Cumulative. The remedies provided in this Article IV shall be cumulative and, subject to the provisions of Article VIII, shall not preclude assertion by any Indemnitee of any other rights or the seeking of any and all other remedies against any Indemnifying Party.

4.10 Survival of Indemnities. The rights and obligations of each of Parent and SpinCo and their respective Indemnitees under this Article IV shall survive (a) the sale or other transfer by either Party or any member of its Group of any assets or businesses or the assignment by it of any Liabilities; or (b) any merger, consolidation, business combination, sale of all or substantially all of its Assets, restructuring, recapitalization, reorganization or similar transaction involving either Party or any of the members of its Group.

ARTICLE V
CERTAIN OTHER MATTERS

5.1 Insurance Matters.

(a) Parent and SpinCo agree to cooperate in good faith to provide for an orderly transition of insurance coverage from the date hereof through the Effective Time. In no event shall Parent, any other member of the Parent Group or any Parent Indemnitee have Liability or obligation whatsoever to any member of the SpinCo Group in the event that any (i) insurance policy or insurance policy related contract shall be terminated or otherwise cease to be in effect for any reason, shall be unavailable or inadequate to cover any Liability of any member of the SpinCo Group for any reason whatsoever or shall be cancelled, not renewed or not extended beyond the current expiration date or (ii) any insurer declines, denies, delays or obstructs any claim payment.

(b) With the sole exception of incidents occurring prior to the Effective Time and which would be otherwise covered under the automobile liability, property, transit, general and products liability, employers' liability, workers compensation or umbrella insurance policies of Parent or any member of the Parent Group or any other insurance policy as set forth on Schedule 5.1(b) (collectively, the "Covered Policies") from and after the Effective Time, SpinCo, any member of the SpinCo Group or any of their respective employees (including former or inactive employees) shall cease be insured by, shall have no access or availability to or under, shall not be entitled to make claims on or under and shall not be entitled to claim benefits from or seek coverage under, and shall not have any rights to or under, any of Parent's or any member of the Parent Group's insurance policies or any of their respective self-insured programs in place immediately prior to the Effective Time. Solely with respect to the Covered Policies, from and after the Effective Time, with respect to any losses, damages and Liability incurred by any member of the SpinCo Group prior to the Effective Time, Parent will provide SpinCo with access to, and SpinCo may make claims under, the Covered Policies in place immediately prior to the Effective Time, but solely to the extent that such policies provided coverage for members of the SpinCo Group or the SpinCo Business prior to the Effective Time; provided that such access to, and the right to make claims under, such insurance policies, shall be subject to the terms, conditions and exclusions of such insurance policies, including any limits on coverage or scope, any deductibles, self-insured retentions and other fees and expenses, and shall be subject to the following additional conditions:

(i) SpinCo shall notify Parent's Director of Risk Management (or such other Person of Parent if there is no Director of Risk Management), as promptly as practicable, of any incident, circumstance or occurrence that may lead to a claim made by SpinCo pursuant to this Section 5.1(b);

(ii) SpinCo shall reimburse Parent and the members of the Parent Group for all claim-related payments made by Parent or any member of the Parent Group on or after the Effective Time that arise from claims made by SpinCo, any member of the SpinCo Group, any of their respective employees or any Third Party under Parent's or any member of the Parent Group's self-insured, large deductible, or fronted insurance programs for occurrences prior to the Effective Time, including overhead, claim handling and administrative costs, taxes, surcharges, state assessments and other related costs. SpinCo and the members of the SpinCo Group shall indemnify, hold harmless and reimburse Parent and the members of the Parent Group for any deductibles, self-insured retention, fees, indemnity payments, settlements, judgments, legal fees, allocated claims expenses and claim handling fees, and other expenses incurred by Parent or any members of the Parent Group to the extent resulting from any access to, or any claims made by SpinCo or any other members of the SpinCo Group under, any of Parent's or a member of the Parent Group's insurance policies provided pursuant to this Section 5.1(b), whether such claims are made by SpinCo, its employees or Third Parties; and

(iii) SpinCo shall exclusively bear (and neither Parent nor any members of the Parent Group shall have any obligation to repay or reimburse SpinCo or any member of the SpinCo Group for) and shall be liable for all excluded, uninsured, uncovered, unavailable or uncollectible amounts (including where any insurer declines, denies, delays or obstructs any claim payment) of all such claims made for the benefit of SpinCo or any member of the SpinCo Group under the policies as provided for in this Section 5.1(b). Where a policy includes a reinstatement of limits, in the event an insurance policy aggregate is exhausted, or believed likely to be exhausted, due to noticed claims, the SpinCo Group, on the one hand, and the Parent Group, on the other hand, shall be responsible for their pro rata portion of the reinstatement premium, if any, based upon the losses of such Group submitted to Parent's insurance carrier(s) (including any submissions prior to the Effective Time). To the extent that the Parent Group or the SpinCo Group is allocated more than its pro rata portion of such premium due to the timing of losses submitted to Parent's insurance carrier(s), the other party shall promptly pay the first party an amount so that each Group has been properly allocated its pro rata portion of the reinstatement premium. Subject to the following sentence, a Party may elect not to reinstate the policy aggregate even if available. In the event that a Party elects not to reinstate the policy aggregate, it shall provide prompt written notice to the other Party and shall have no rights to claim against or have any benefit from the reinstated limits. A Party which elects to reinstate the policy aggregate shall be responsible for all reinstatement premiums and other costs associated with such reinstatement to the extent such Party has received notice from the other Party that such other Party does not elect to reinstate the limits.

In the event that any member of the Parent Group incurs any losses, damages or Liability prior to or in respect of the period prior to the Effective Time for which such member of the Parent Group is entitled to coverage under SpinCo's third-party insurance policies, the same process pursuant to this Section 5.1(b) shall apply, substituting "Parent" for "SpinCo" and "SpinCo" for "Parent", including for purposes of the first sentence of Section 5.1(e).

(c) At the Effective Time, SpinCo shall have in effect all insurance programs required to comply with SpinCo's contractual obligations and such other Policies required by Law or as reasonably necessary or appropriate for companies operating a business similar to SpinCo's.

(d) Neither SpinCo nor any member of the SpinCo Group, in connection with making a claim under any insurance policy of Parent or any member of the Parent Group pursuant to this Section 5.1, shall take any action that would be reasonably likely to (i) have a material and adverse impact on the then-current relationship between Parent or any member of the Parent Group, on the one hand, and the applicable insurance company, on the other hand; (ii) result in the applicable insurance company terminating or materially reducing coverage, or materially increasing the amount of any premium owed by Parent or any member of the Parent Group under the applicable insurance policy; or (iii) otherwise compromise, jeopardize or interfere in any material respect with the rights of Parent or any member of the Parent Group under the applicable insurance policy; provided that SpinCo's, any member of the SpinCo Group's, any of their respective employees' or any Third Party's making of a claim pursuant to Section 5.1(b)(ii) shall not be deemed to be an action that triggers the foregoing clauses (i), (ii) or (iii).

(e) Any payments, costs, adjustments or reimbursements to be paid by SpinCo pursuant to this Section 5.1 shall be billed quarterly and payable within thirty (30) days from receipt of an invoice from Parent. Parent shall retain the exclusive right to control its insurance policies and programs, including the right to exhaust, settle, release, commute, buyback or otherwise resolve disputes with respect to any of its insurance policies and programs and to amend, modify or waive any rights under any such insurance policies and programs, notwithstanding whether any such policies or programs apply to any SpinCo Liabilities and/or claims SpinCo has made or could make in the future, and no member of the SpinCo Group shall erode, exhaust, settle, release, commute, buyback or otherwise resolve disputes with Parent's insurers with respect to any of Parent's insurance policies and programs, or amend, modify or waive any rights under any such insurance policies and programs. SpinCo shall cooperate with Parent and share such information as is reasonably necessary in order to permit Parent to manage and conduct its insurance matters as Parent deems appropriate. Each Party and any member of its applicable Group has the sole right to settle or otherwise resolve third-party claims made against it or any member of its applicable Group covered under an applicable insurance policy.

(f) This Agreement shall not be considered as an attempted assignment of any policy of insurance or as a contract of insurance and shall not be construed to waive any right or remedy of any member of the Parent Group in respect of any insurance policy or any other contract or policy of insurance.

(g) SpinCo does hereby, for itself and each other member of the SpinCo Group, agree that no member of the Parent Group shall have any Liability whatsoever as a result of the insurance policies and practices of Parent and the members of the Parent Group as in effect at any time, including as a result of the level or scope of any such insurance, the creditworthiness of any insurance carrier, the terms and conditions of any policy, or the adequacy or timeliness of any notice to any insurance carrier with respect to any claim or potential claim or otherwise.

5.2 Late Payments. Except as expressly provided to the contrary in this Agreement or in any Ancillary Agreement, any amount not paid when due pursuant to this Agreement or any Ancillary Agreement (and any amounts billed or otherwise invoiced or demanded and properly payable that are not paid within ten (10) days of a notice of non-payment) shall accrue interest at a rate per annum equal to eight percent (8%).

5.3 Treatment of Payments for Tax Purposes. For all applicable Tax purposes, the Parties agree to treat any payment required by this Agreement as set forth in Section 5.4 of the Tax Matters Agreement.

5.4 Inducement. SpinCo acknowledges and agrees that Parent's willingness to cause, effect and consummate the Separation and the Distribution has been conditioned upon and induced by SpinCo's covenants and agreements in this Agreement and the Ancillary Agreements, including SpinCo's assumption of the SpinCo Liabilities pursuant to the Separation and the provisions of this Agreement and SpinCo's covenants and agreements contained in Article IV.

5.5 Post-Effective Time Conduct. The Parties acknowledge that, after the Effective Time, each Party shall be independent of the other Party, with responsibility for its own actions and inactions and its own Liabilities relating to, arising out of or resulting from the conduct of its business, operations and activities following the Effective Time, except as may otherwise be provided in any Ancillary Agreement, and each Party shall (except as otherwise provided in Article IV) use commercially reasonable efforts to prevent such Liabilities from being inappropriately borne by the other Party.

ARTICLE VI
EXCHANGE OF INFORMATION; CONFIDENTIALITY

6.1 Agreement for Exchange of Information.

(a) Subject to Section 6.9 and any other applicable confidentiality obligations, each of Parent and SpinCo, on behalf of itself and each member of its Group, agrees to use commercially reasonable efforts to provide or make available, or cause to be provided or made available, to the other Party and the members of such other Party's Group, at any time before, on or after the Effective Time, as soon as reasonably practicable after written request therefor, any information (or a copy thereof) in the possession or under the control of such Party or its Group which the requesting Party or its Group requests to the extent that (i) such information relates to the SpinCo Business, or any SpinCo Asset or SpinCo Liability, if SpinCo is the requesting Party, or to the Parent Business, or any Parent Asset or Parent Liability, if Parent is the requesting Party; (ii) such information is required by the requesting Party to comply with its obligations under this Agreement or any Ancillary Agreement; or (iii) such information is required by the requesting Party to comply with any obligation imposed by any Governmental Authority; provided, however, that, in the event that the Party to whom the request has been made determines that any such provision of information could be detrimental to the Party providing the information, violate any Law or agreement, or waive any privilege available under applicable Law, including any attorney-client privilege, then the Parties shall use commercially reasonable efforts to permit compliance with such obligations to the extent and in a manner that avoids any such harm or consequence. The Party providing information pursuant to this Section 6.1 shall only be obligated to provide such information in the form, condition and format in which it then exists, and in no event shall such Party be required to perform any improvement, modification, conversion, updating or reformatting of any such information, and nothing in this Section 6.1 shall expand the obligations of either Party under Section 6.4.

(b) Without limiting the generality of the foregoing, until the end of the SpinCo fiscal year during which the Distribution Date occurs (and for a reasonable period of time afterwards as required for each Party to prepare consolidated financial statements or complete a financial statement audit for the fiscal year during which the Distribution Date occurs), each Party shall use its commercially reasonable efforts to cooperate with the other Party's information requests to enable (i) the other Party to meet its timetable for dissemination of its earnings releases, financial statements and management's assessment of the effectiveness

of its disclosure controls and procedures and its internal control over financial reporting in accordance with Items 307 and 308, respectively, of Regulation S-K promulgated under the Exchange Act; and (ii) the other Party's accountants to timely complete their review of the quarterly financial statements and audit of the annual financial statements, including, to the extent applicable to such Party, its auditor's audit of its internal control over financial reporting and management's assessment thereof in accordance with Section 404 of the Sarbanes-Oxley Act of 2002, the SEC's and Public Company Accounting Oversight Board's rules and auditing standards thereunder and any other applicable Laws.

6.2 Ownership of Information. The provision of any information pursuant to Section 6.1 or Section 6.7 shall not affect the ownership of such information (which shall be determined solely in accordance with the terms of this Agreement and the Ancillary Agreements) or constitute a grant of rights in or to any such information.

6.3 Compensation for Providing Information. The Party requesting information agrees to reimburse the other Party for the reasonable costs, if any, of creating, gathering, copying, transporting and otherwise complying with the request with respect to such information (including any reasonable costs and expenses incurred in any review of information for purposes of protecting the Privileged Information of the providing Party or in connection with the restoration of backup media for purposes of providing the requested information). Except as may be otherwise specifically provided elsewhere in this Agreement, any Ancillary Agreement or any other agreement between the Parties, such costs shall be computed in accordance with the providing Party's standard methodology and procedures.

6.4 Record Retention. To facilitate the possible exchange of information pursuant to this Article VI and other provisions of this Agreement after the Effective Time, the Parties agree to use their commercially reasonable efforts, which shall be no less rigorous than those used for retention of such Party's own information, to retain all information in their respective possession or control at the Effective Time in substantial accordance with the policies of Parent as in effect at the Effective Time or such other policies as may be adopted by Parent after the Effective Time (provided that Parent notifies SpinCo in writing of any such change). Notwithstanding the foregoing, the Tax Matters Agreement will exclusively govern the retention of Tax-related records and the exchange of Tax-related information, and the Employee Matters Agreement will exclusively govern the retention of employment and benefits related records.

6.5 Limitations of Liability. Neither Party shall have any Liability to the other Party in the event that any information exchanged or provided pursuant to this Agreement is found to be inaccurate in the absence of gross negligence, bad faith, fraud or willful misconduct by the Party providing such information. Neither Party shall have any Liability to any other Party if any information is destroyed after commercially reasonable efforts by such Party to comply with the provisions of Section 6.4.

6.6 Other Agreements Providing for Exchange of Information.

(a) The rights and obligations granted under this Article VI are subject to any specific limitations, qualifications or additional provisions on the sharing, exchange, retention or confidential treatment of information set forth in any Ancillary Agreement.

(b) Any party that receives, pursuant to a request for information in accordance with this Article VI, Tangible Information that is not relevant to its request shall, at the request of the providing Party, (i) return it to the providing Party or, at the providing Party's request, destroy such Tangible Information; and (ii) deliver to the providing Party written confirmation that such Tangible Information was returned or destroyed, as the case may be, which confirmation shall be signed by an authorized representative of the requesting Party.

6.7 Production of Witnesses; Records; Cooperation.

(a) After the Effective Time, except in the case of a Dispute between Parent and SpinCo, or any members of their respective Groups, each Party shall use its commercially reasonable efforts to make available to the other Party, upon written request, the former, current and future directors, officers, employees, other personnel and agents of the members of its respective Group as witnesses and any books, records or other documents within its control or which it otherwise has the ability to make available without undue burden, to the extent that any such person (giving consideration to business demands of such directors, officers, employees, other personnel and agents) or books, records or other documents may reasonably be required in connection with any Action in which the requesting Party (or member of its Group) may from time to time be involved, regardless of whether such Action is a matter with respect to which indemnification may be sought hereunder. The requesting Party shall bear all costs and expenses in connection therewith.

(b) If an Indemnifying Party chooses to defend or to seek to compromise or settle any Third-Party Claim, the other Party shall make available to such Indemnifying Party, upon written request, the former, current and future directors, officers, employees, other personnel and agents of the members of its respective Group as witnesses and any books, records or other documents within its control or which it otherwise has the ability to make available without undue burden, to the extent that any such person (giving consideration to business demands of such directors, officers, employees, other personnel and agents) or books, records or other documents may reasonably be required in connection with such defense, settlement or compromise, or such prosecution, evaluation or pursuit, as the case may be, and shall otherwise cooperate in such defense, settlement or compromise, or such prosecution, evaluation or pursuit, as the case may be.

(c) Without limiting the foregoing, the Parties shall cooperate and consult to the extent reasonably necessary with respect to any Actions.

(d) Without limiting any provision of this Section 6.7, each of the Parties agrees to cooperate, and to cause each member of its respective Group to cooperate, with each other in the defense of any infringement or similar claim with respect to any Intellectual Property Rights and shall not claim to acknowledge, or permit any member of its respective Group to claim to acknowledge, the validity or infringing use of any Intellectual Property Rights of a Third Party in a manner that would hamper or undermine the defense of such infringement or similar claim.

(e) The obligation of the Parties to provide witnesses pursuant to this Section 6.7 is intended to be interpreted in a manner so as to facilitate cooperation and shall include the obligation to provide as witnesses directors, officers, employees, other personnel and agents without regard to whether such person or the employer of such person could assert a possible business conflict (subject to the exception set forth in the first sentence of Section 6.7(a)).

6.8 Privileged Matters.

(a) The Parties recognize that legal and other professional services that have been and will be provided prior to the Effective Time have been and will be rendered for the collective benefit of each of the members of the Parent Group and the SpinCo Group, and that each of the members of the Parent Group and the SpinCo Group should be deemed to be the client with respect to such services for the purposes of asserting all privileges which may be asserted under applicable Law in connection therewith. The Parties recognize that legal and other professional services will be provided following the Effective Time, which services will be rendered solely for the benefit of the Parent Group or the SpinCo Group, as the case may be. In furtherance of the foregoing, each Party shall authorize the delivery to and/or retention by the other Party of materials existing as of the Effective Time that are necessary for such other Party to perform such services.

(b) The Parties agree as follows:

(i) Parent shall be entitled, in perpetuity, to control the assertion or waiver of all privileges and immunities in connection with any Privileged Information that relates solely to the Parent Business and not to the SpinCo Business, whether or not the Privileged Information is in the possession or under the control of any member of the Parent Group or any member of the SpinCo Group. Parent shall also be entitled, in perpetuity, to control the assertion or waiver of all privileges and immunities in connection with any Privileged Information that relates solely to any Parent Liabilities resulting from any Actions that are now pending or may be asserted in the future, whether or not the Privileged Information is in the possession or under the control of any member of the Parent Group or any member of the SpinCo Group;

(ii) SpinCo shall be entitled, in perpetuity, to control the assertion or waiver of all privileges and immunities in connection with any Privileged Information that relates solely to the SpinCo Business and not to the Parent Business, whether or not the Privileged Information is in the possession or under the control of any member of the SpinCo Group or any member of the Parent Group. SpinCo shall also be entitled, in perpetuity, to control the assertion or waiver of all privileges and immunities in connection with any Privileged Information that relates solely to any SpinCo Liabilities resulting from any Actions that are now pending or may be asserted in the future, whether or not the Privileged Information is in the possession or under the control of any member of the SpinCo Group or any member of the Parent Group; and

(iii) If the Parties do not agree as to whether certain information is Privileged Information, then such information shall be treated as Privileged Information, and the Party that believes that such information is Privileged Information shall be entitled to control the assertion or waiver of all privileges and immunities in connection with any such information unless the Parties otherwise agree. The Parties shall use the procedures set forth in Article VII to resolve any disputes as to whether any information relates solely to the Parent Business, solely to the SpinCo Business, or to both the Parent Business and the SpinCo Business.

(c) Subject to the remaining provisions of this Section 6.8, the Parties agree that they shall have a shared privilege or immunity with respect to all privileges and immunities not allocated pursuant to Section 6.8(b) and all privileges and immunities relating to any Actions or other matters that involve both Parties (or one (1) or more members of their respective Groups) and in respect of which both Parties have Liabilities under this Agreement, and that no such shared privilege or immunity may be waived by either Party without the consent of the other Party.

(d) If any Dispute arises between the Parties or any members of their respective Groups regarding whether a privilege or immunity should be waived to protect or advance the interests of either Party and/or any member of their respective Groups, each Party agrees that it shall (i) negotiate with the other Party in good faith; (ii) endeavor to minimize any prejudice to the rights of the other Party; and (iii) not unreasonably withhold consent to any request for waiver by the other Party. Further, each Party specifically agrees that it shall not withhold its consent to the waiver of a privilege or immunity for any purpose except in good faith to protect its own legitimate interests.

(e) In the event of any Dispute between Parent and SpinCo, or any members of their respective Groups, either Party may waive a privilege in which the other Party or member of such other Party's Group has a shared privilege, without obtaining consent pursuant to Section 6.8(c); provided that the Parties intend such waiver of a shared privilege to be effective only as to the use of information with respect to the Action between the Parties and/or the applicable members of their respective Groups, and is not intended to operate as a waiver of the shared privilege with respect to any Third Party.

(f) Upon receipt by either Party, or by any member of its respective Group, of any subpoena, discovery or other request that may reasonably be expected to result in the production or disclosure of Privileged Information subject to a shared privilege or immunity or as to which another Party has the sole right hereunder to assert a privilege or immunity, or if either Party obtains knowledge that any of its, or any member of its respective Group's, current or former directors, officers, agents or employees have received any subpoena, discovery or other requests that may reasonably be expected to result in the production or disclosure of such Privileged Information, such Party shall promptly notify the other Party of the existence of the request (which notice shall be delivered to such other Party no later than five (5) business days following the receipt of any such subpoena, discovery or other request) and shall provide the other Party a reasonable opportunity to review the Privileged Information and to assert any rights it or they may have under this Section 6.8 or otherwise, to prevent the production or disclosure of such Privileged Information.

(g) Any furnishing of, or access or transfer of, any information pursuant to this Agreement is made in reliance on the agreement of Parent and SpinCo set forth in this Section 6.8 and in Section 6.9 to maintain the confidentiality of Privileged Information and to assert and maintain all applicable privileges and immunities. The Parties agree that their respective rights to any access to information, witnesses and other Persons, the furnishing of notices and documents and other cooperative efforts between the Parties contemplated by this Agreement, and the transfer of Privileged Information between the Parties and members of their respective Groups as needed 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.

(h) In connection with any matter contemplated by Section 6.7 or this Section 6.8, the Parties agree to, and to cause the applicable members of their Group to, use commercially reasonable efforts to maintain their respective separate and joint privileges and immunities, including by executing joint defense and/or common interest agreements where necessary or useful for this purpose.

6.9 Confidentiality.

(a) *Confidentiality.* Subject to Section 6.10, and without prejudice to any longer period that may be provided for in any of the Ancillary Agreements, from and after the Effective Time until the three (3)-year anniversary of the Effective Time, each of Parent and SpinCo, on behalf of itself and each member of its respective Group, agrees to hold, and to cause its respective Representatives to hold, in strict confidence, with at least the same degree of care that applies to Parent's confidential and proprietary information pursuant to policies in effect as of the Effective Time, all confidential and proprietary information concerning the other Party or any member of the other Party's Group or their respective businesses that is either in its possession (including confidential and proprietary information in its possession prior to the date hereof) or furnished by any such other Party or any member of such Party's Group or their respective Representatives at any time pursuant to this Agreement, any Ancillary Agreement or otherwise, and shall not use any such confidential and proprietary information other than for such purposes as shall be expressly permitted hereunder or thereunder, except, in each case, to the extent that such confidential and proprietary information has been (i) in the public domain or generally available to the public, other than as a result of a disclosure by such Party or any member of such Party's Group or any of their respective Representatives in violation of this Agreement, (ii) later lawfully acquired from other sources by such Party (or any member of such Party's Group) which sources are not themselves known by such Party (or any member of such Party's Group) to be bound by a confidentiality obligation or other contractual, legal or fiduciary obligation of confidentiality with respect to such confidential and proprietary information, or (iii) independently developed or generated without reference to or use of any proprietary or confidential information of the other Party or any member of such Party's Group. Notwithstanding the foregoing three (3)-year period, Parent's and SpinCo's obligations with respect to confidential and proprietary information that constitutes Trade Secrets shall survive and continue for so long as such confidential and proprietary information retains its status as a Trade Secret. If any confidential and proprietary information of one Party or any member of its Group is disclosed to the other Party or any member of such other Party's Group in connection with providing services to such first Party or any member of such first Party's Group under this Agreement or any Ancillary Agreement, then such disclosed confidential and proprietary information shall be used only as required to perform such services.

(b) *No Release; Return or Destruction.* Each Party agrees not to release or disclose, or permit to be released or disclosed, any information addressed in Section 6.9(a) to any other Person, except its Representatives who need to know such information in their capacities as such (who shall be advised of their obligations hereunder with respect to such information), and except in compliance with Section 6.10. Without limiting the foregoing, when any such information is no longer needed for the purposes contemplated by this Agreement or any Ancillary Agreement, and is no longer subject to any legal hold or other document preservation obligation, each Party will promptly after request of the other Party either return to the other Party all such information in a tangible form (including all copies thereof and all notes, extracts or summaries based thereon) or notify the other Party in writing that it has destroyed such information (and such copies thereof and such notes, extracts or summaries based thereon); provided, that the Parties may retain electronic back-up versions of such information maintained on routine computer system backup tapes, disks or other backup storage devices; provided further, that any such information so retained shall remain subject to the confidentiality provisions of this Agreement or any Ancillary Agreement.

(c) *Third-Party Information; Privacy or Data Protection Laws.* Each Party acknowledges that it and members of its Group may presently have and, following the Effective Time, may gain access to or possession of confidential or proprietary information of, or legally-protected personal information (including personal health information) relating to, Third Parties (i) that was received under privacy policies or notices and/or confidentiality or non-disclosure agreements entered into between such Third Parties, on the one hand, and the other Party or members of such other Party's Group, on the other hand, prior to the Effective Time; or (ii) that, as between the two Parties, was originally collected by the other Party or members of such other Party's Group and that may be subject to and protected by privacy policies or notices, as well as applicable data privacy Laws or other applicable Laws. Each Party agrees that it shall hold, protect and use, and shall cause the members of its Group and its and their respective Representatives to hold, protect and use, in strict confidence the confidential and proprietary information of, or legally-protected personal information (including personal health information) relating to, Third Parties in accordance with the obligations outlined in the applicable privacy policies or notices and applicable data privacy Laws or other applicable Laws and the terms of any agreements that were either entered into before the Effective Time or affirmative commitments or representations that were made before the Effective Time by, between or among the other Party or members of the other Party's Group, on the one hand, and such Third Parties, on the other hand, including as set forth in the Data Agreement.

6.10 Protective Arrangements. In the event that a Party or any member of its Group either determines on the advice of its counsel that it is required to disclose any information pursuant to applicable Law or receives any request or demand under lawful process or from any Governmental Authority to disclose or provide information of the other Party (or any member of the other Party's Group) that is subject to the confidentiality provisions hereof, such Party shall notify the other Party (to the extent legally permitted) as promptly as practicable under the circumstances prior to disclosing or providing such information and shall cooperate, at the expense of the other Party, in seeking any appropriate protective order requested by the other

Party. In the event that such other Party fails to receive such appropriate protective order in a timely manner and the Party receiving the request or demand reasonably determines that its failure to disclose or provide such information shall actually prejudice the Party receiving the request or demand, then the Party that received such request or demand may thereafter disclose or provide information to the extent required by such Law (as so advised by its counsel) or by lawful process or such Governmental Authority, and the disclosing Party shall promptly provide the other Party with a copy of the information so disclosed, in the same form and format so disclosed, together with a list of all Persons to whom such information was disclosed, in each case to the extent legally permitted.

ARTICLE VII
DISPUTE RESOLUTION

7.1 Transition Committee. Subject to Section 7.5, either Party seeking resolution of any dispute, controversy or claim arising out of or relating to this Agreement or any Ancillary Agreement (including regarding whether any Assets are SpinCo Assets or Parent Assets, any Liabilities are SpinCo Liabilities or Parent Liabilities or the validity, interpretation, breach or termination of this Agreement or any Ancillary Agreement) (a "Dispute"), shall provide written notice thereof to the Transition Committee (the "Initial Notice"). Following the delivery of the Initial Notice, the Transition Committee shall attempt to resolve the Dispute through the procedures it is empowered to adopt in accordance with Section 2.14. If the Transition Committee is unable for any reason to resolve a Dispute within thirty (30) days after the delivery of the Initial Notice, the Parties shall enter into good-faith negotiations in accordance with Section 7.2 and Section 7.3.

7.2 Good-Faith Officer Negotiation. If a Dispute is not resolved pursuant to Section 7.1, the Transition Committee shall provide written notice thereof to each Party (the "Officer Negotiation Request"). Within thirty (30) days of the delivery of the Officer Negotiation Request, the Parties shall attempt to resolve the Dispute through good faith negotiation. All such negotiations shall be conducted by executives who hold, at a minimum, the title of Senior Vice President and who have authority to settle the Dispute. All such negotiations shall be confidential and shall be treated as compromise and settlement negotiations for purposes of applicable rules of evidence. If the Parties are unable for any reason to resolve a Dispute within thirty (30) days of receipt of the Officer Negotiation Request, and such thirty (30) day period is not extended by mutual written consent of the Parties, the Chief Executive Officers of the Parties shall enter into good faith negotiations in accordance with Section 7.3.

7.3 CEO Negotiation. If any Dispute is not resolved pursuant to Section 7.2, the Transition Committee shall provide written notice of such Dispute to the Chief Executive Officer of each Party (a "CEO Negotiation Request"). As soon as reasonably practicable following receipt of a CEO Negotiation Request, the Chief Executive Officers of the Parties shall begin conducting good faith negotiations with respect to such Dispute. All such negotiations shall be confidential and shall be treated as compromise and settlement negotiations for purposes of applicable rules of evidence. If the Chief Executive Officers of the Parties are unable for any reason to resolve a Dispute within thirty (30) days of receipt of a CEO Negotiation Request, and such thirty (30) day period is not extended by mutual written consent of the Parties, the Dispute shall be submitted to mediation in accordance with Section 7.4.

7.4 Mediation. In the event that a Dispute has not been resolved within thirty (30) days of the receipt of a CEO Negotiation Request in accordance with Section 7.3, or within such longer period as the Parties may agree to in writing, then such Dispute shall, upon the written request of a Party (the "Mediation Request"), be submitted to mandatory mediation in accordance with the International Institute for Conflict Prevention & Resolution ("CPR") Mediation Procedure (the "Procedure") then in effect, except as modified herein. The mediation shall be held in (i) Franklin Lakes, New Jersey, if the Parties each maintain corporate headquarters in such city at the time a Mediation Request is submitted, (ii) New York City, New York, or (iii) such other place as the Parties may mutually agree in writing. The parties shall have fifteen (15) days from receipt of a Mediation Request to agree on a mediator. If no mediator has been agreed upon by the Parties within fifteen (15) days of receipt of a Mediation Request, then any Party may request (on written notice to the other Party) that CPR appoint a mediator in accordance with the Procedure. If the Dispute has not been resolved within thirty (30) days of the appointment of a mediator, or within such longer period as the Parties may agree to in writing, either Party may commence litigation in accordance with Section 10.2; provided, however, that if one Party fails to participate in the mediation, the other Party may commence litigation in accordance with Section 10.2 prior to the expiration of the time periods set forth above.

7.5 Litigation. Notwithstanding the foregoing provisions of this Article VII, a Party may seek preliminary provisional or injunctive judicial relief with respect to a Dispute without first complying with the procedures set forth in Section 7.1, Section 7.2, Section 7.3 and Section 7.4 if such action is reasonably necessary to avoid irreparable damage.

7.6 Conduct During Dispute Resolution Process. Unless otherwise agreed in writing, the Parties shall, and shall cause the respective members of their Groups to, continue to honor all commitments under this Agreement and each Ancillary Agreement to the extent required by such agreements during the course of dispute resolution pursuant to the provisions of this Article VII, unless such commitments are the specific subject of the Dispute at issue.

ARTICLE VIII
FURTHER ASSURANCES AND ADDITIONAL COVENANTS

8.1 Further Assurances.

(a) In addition to the actions specifically provided for elsewhere in this Agreement, each of the Parties shall use its reasonable best efforts, prior to, on and after the Effective Time, to take, or cause to be taken, all actions, and to do, or cause to be done, all things, reasonably necessary, proper or advisable under applicable Laws, regulations and agreements to consummate and make effective the transactions contemplated by this Agreement and the Ancillary Agreements.

(b) Without limiting the foregoing, prior to, on and after the Effective Time, each Party hereto shall cooperate with the other Party, and without any further consideration, but at the expense of the requesting Party, to execute and deliver, or use its reasonable best efforts to cause to be executed and delivered, all instruments, including instruments of conveyance, assignment and transfer, and to make all filings with, and to obtain all Approvals or Notifications of, any Governmental Authority or any other Person under any permit, license, agreement, indenture or other instrument (including any consents or Governmental Approvals), and to take all such other actions as such Party may reasonably be requested to take by the other Party from time to time, consistent with the terms of this Agreement and the Ancillary Agreements, in order to effectuate the provisions and purposes of this Agreement and the Ancillary Agreements and the transfers of the SpinCo Assets and the Parent Assets and the assignment and assumption of the SpinCo Liabilities and the Parent Liabilities and the other transactions contemplated hereby and thereby. Without limiting the foregoing, each Party will, at the reasonable request, cost and expense of the requesting Party, take such other actions as may be reasonably necessary to vest in such other Party good and marketable title to the Assets allocated to such Party under this Agreement or any of the Ancillary Agreements, free and clear of any Security Interest, if and to the extent it is practicable to do so.

(c) On or prior to the Effective Time, Parent and SpinCo in their respective capacities as direct and indirect stockholders of the members of their Groups, shall each ratify any actions which are reasonably necessary or desirable to be taken by Parent, SpinCo or any of the members of their respective Groups, as the case may be, to effectuate the transactions contemplated by this Agreement and the Ancillary Agreements.

(d) Parent and SpinCo, and each of the members of their respective Groups, waive (and agree not to assert against any of the others) any claim or demand that any of them may have against any of the others for any Liabilities or other claims relating to or arising out of: (i) the failure of SpinCo or any other member of the SpinCo Group, on the one hand, or of Parent or any other member of the Parent Group, on the other hand, to provide any notification or disclosure required under any state Environmental Law in connection with the Separation or the other transactions contemplated by this Agreement, including the transfer by any member of any Group to any member of the other Group of ownership or operational control of any Assets not previously owned or operated by such transferee; or (ii) any inadequate, incorrect or incomplete notification or disclosure under any such state Environmental Law by the applicable transferor. To the extent any Liability to any Governmental Authority or any Third Party arises out of any action or inaction described in clause (i) or (ii) above, the transferee of the applicable Asset hereby assumes and agrees to pay any such Liability.

8.2 Use of the BD Name and BD Marks. SpinCo undertakes to (and to cause the members of the SpinCo Group to) discontinue the use of the name "BD" and the related trademark symbol as soon as reasonably practicable after the Effective Time, but in any case not longer than a two (2)-year period commencing on the Distribution Date, except in the case of a Deferred SpinCo Local Business, in which case not longer than a two (2)-year period commencing on the date of the local closing applicable to such Deferred SpinCo Local Business; provided that the applicable two (2)-year period shall be extended if required by applicable regulatory requirements, but for no longer than the minimum period required by such regulatory requirements (the "Transition Period"). Notwithstanding the foregoing, effective as of the Effective Time, Parent, on behalf of itself and its Affiliates, hereby grants to the members of the SpinCo Group a non-exclusive, sublicenseable, worldwide and royalty-free license to use and

have used the name "BD", "Becton Dickinson" and the related trademark symbol in legal entity names, for the sale of inventory (including both finished and unfinished inventory) containing such name or trademark applied to such products created and for the related regulatory registrations for such inventory: (a) prior to the Effective Time and (b) during the Transition Period; provided, that SpinCo shall (and shall cause the members of the SpinCo Group and its sublicensees to) use such name or trademark at a level of quality equivalent to that in effect as of the Effective Time. Nothing set forth in this Section 8.2 shall affect the SpinCo Group's rights and obligations with respect to the Licensed BD Marks (as defined in the Intellectual Property Matters Agreement), which rights and obligations are dealt with exclusively in the Intellectual Property Matters Agreement.

ARTICLE IX
TERMINATION

9.1 Termination. This Agreement and all Ancillary Agreements may be terminated and the Distribution may be amended, modified or abandoned at any time prior to the Effective Time by Parent, in its sole and absolute discretion, without the approval or consent of any other Person, including SpinCo. After the Effective Time, this Agreement may not be terminated except by an agreement in writing signed by a duly authorized officer of each of the Parties.

9.2 Effect of Termination. In the event of any termination of this Agreement prior to the Effective Time, no Party (nor any of its directors, officers or employees) shall have any Liability or further obligation to the other Party by reason of this Agreement.

ARTICLE X
MISCELLANEOUS

10.1 Counterparts; Entire Agreement; Corporate Power.

(a) This Agreement and each Ancillary Agreement may be executed in one (1) or more counterparts, all of which shall be considered one and the same agreement, and shall become effective when one (1) or more counterparts have been signed by each of the Parties and delivered to the other Party.

(b) This Agreement, the Ancillary Agreements and the Exhibits, Schedules and appendices hereto and thereto contain the entire agreement between the Parties with respect to the subject matter hereof, supersede all previous agreements, negotiations, discussions, writings, understandings, commitments and conversations with respect to such subject matter, and there are no agreements or understandings between the Parties other than those set forth or referred to herein or therein. This Agreement and the Ancillary Agreements together govern the arrangements in connection with the Separation and the Distribution and would not have been entered into independently.

(c) Parent represents on behalf of itself and each other member of the Parent Group, and SpinCo represents on behalf of itself and each other member of the SpinCo Group, as follows:

(i) each such Person has the requisite corporate or other power and authority and has taken all corporate or other action necessary in order to execute, deliver and perform this Agreement and each Ancillary Agreement to which it is a party and to consummate the transactions contemplated hereby and thereby; and

(ii) this Agreement and each Ancillary Agreement to which it is a party has been duly executed and delivered by it and constitutes a valid and binding agreement of it enforceable in accordance with the terms thereof.

(d) Each Party acknowledges that it and each other Party is executing certain of the Ancillary Agreements by facsimile, stamp or mechanical signature, and that delivery of an executed counterpart of a signature page to this Agreement or any Ancillary Agreement (whether executed by manual, stamp or mechanical signature) by facsimile or by e-mail in portable document format (PDF) shall be effective as delivery of such executed counterpart of this Agreement or any Ancillary Agreement. Each Party expressly adopts and confirms each such facsimile, stamp or mechanical signature (regardless of whether delivered in person, by mail, by courier, by facsimile or by e-mail in portable document format (PDF)) made in its respective name as if it were a manual signature delivered in person, agrees that it will not assert that any such signature or delivery is not adequate to bind such Party to the same extent as if it were signed manually and delivered in person and agrees that, at the reasonable request of the other Party at any time, it will as promptly as reasonably practicable cause each such Ancillary Agreement to be manually executed (any such execution to be as of the date of the initial date thereof) and delivered in person, by mail or by courier.

10.2 Governing Law; Submission to Jurisdiction; Waiver of Jury Trial.

(a) This Agreement and, unless expressly provided therein, each Ancillary Agreement (and any claims or disputes arising out of or related hereto or thereto or to the transactions contemplated hereby and thereby or to the inducement of any party to enter herein and therein, whether for breach of contract, tortious conduct or otherwise and whether predicated on common law, statute or otherwise) shall be governed by and construed and interpreted in accordance with the Laws of the State of Delaware irrespective of the choice of laws principles of the State of Delaware including all matters of validity, construction, effect, enforceability, performance and remedies.

(b) Each Party hereto irrevocably agrees that any litigation relating to any Dispute with respect to this Agreement and the rights and obligations arising hereunder, or for recognition and enforcement of any judgment in respect of this Agreement and the rights and obligations arising hereunder brought by the other Party hereto or its successors or assigns, shall be brought and determined exclusively in the Delaware Court of Chancery and any state appellate court therefrom within the State of Delaware (or, solely in the case that the Delaware Court of Chancery declines to accept jurisdiction over a particular matter, any state or federal court within the State of Delaware) (the "Chosen Courts"). Each of the Parties hereto hereby irrevocably submits with regard to any such Dispute for itself and in respect of its property, generally and unconditionally, to the personal jurisdiction of the Chosen Courts and agrees that it will not bring any action relating to this Agreement or any of the transactions contemplated by this Agreement in any court other than the Chosen Courts. Each of the Parties hereto hereby

irrevocably waives, and agrees not to assert, by way of motion, as a defense, counterclaim or otherwise, in any Dispute with respect to this Agreement, (i) any claim that it is not personally subject to the jurisdiction of the Chosen Courts, (ii) any claim that it or its property is exempt or immune from jurisdiction of any such court or from any legal process commenced in such courts (whether through service of notice, attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment or otherwise) and (iii) to the fullest extent permitted by applicable Law, any claim that (A) the Dispute in such court is brought in an inconvenient forum, (B) the venue of such Dispute is improper or (C) this Agreement, or the subject matter hereof, may not be enforced in or by such courts. To the fullest extent permitted by applicable Law, each Party hereto hereby consents to the service of process in accordance with Section 10.5; provided that (I) nothing herein shall affect the right of any Party to serve legal process in any other manner permitted by Law and (II) each such Party's consent to jurisdiction and service contained in this Section 10.2(b) is solely for the purpose referred to in this Section 10.2(b) and shall not be deemed to be a general submission to said courts or in the State of Delaware other than for such purpose.

(c) EACH PARTY HERETO IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY DISPUTE ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

10.3 Assignability. Except as set forth in any Ancillary Agreement, this Agreement and each Ancillary Agreement shall be binding upon and inure to the benefit of the Parties and the parties thereto, respectively, and their respective successors and permitted assigns; provided, however, that neither Party nor any such party thereto may assign its rights or delegate its obligations under this Agreement or any Ancillary Agreement without the express prior written consent of the other Party hereto or other parties thereto, as applicable.

10.4 Third-Party Beneficiaries. Except for the indemnification rights under this Agreement and each Ancillary Agreement of any Parent Indemnitee or SpinCo Indemnitee in their respective capacities as such, (a) the provisions of this Agreement and each Ancillary Agreement are solely for the benefit of the Parties and are not intended to confer upon any Person except the Parties any rights or remedies hereunder, and (b) there are no third-party beneficiaries of this Agreement or any Ancillary Agreement and neither this Agreement nor any Ancillary Agreement shall provide any Third Party with any remedy, claim, Liability, reimbursement, claim of action or other right in excess of those existing without reference to this Agreement or any Ancillary Agreement.

10.5 Notices. All notices, requests, claims, demands or other communications under this Agreement and, to the extent applicable and unless otherwise provided therein, under each of the Ancillary Agreements, shall be in writing and shall be given or made (and except as provided herein, shall be deemed to have been duly given or made upon receipt) by delivery in person, by overnight courier service, by certified mail, return receipt requested, by electronic mail ("e-mail"), so long as confirmation of receipt of such e-mail is requested and received, to the respective Parties at the following addresses (or at such other address for a Party as shall be specified in a notice given in accordance with this Section 10.5):

If to Parent, to:

Becton, Dickinson and Company
1 Becton Drive
Franklin Lakes, New Jersey 07417
Attention: Joseph LaSala
Chief Counsel - Transactions/M&A
E-mail: joseph_lasala@bd.com

If to SpinCo, to:

Embecta Corp.
300 Kimball Drive
Parsippany, New Jersey 07054
Attention: Jeff Mann
Senior Vice President, General Counsel,
Head of Corporate Development and Corporate Secretary
E-mail: jeff.mann@bd.com; jeff.mann@embecta.com

A Party may, by notice to the other Party, change the address to which such notices are to be given or made.

10.6 Severability. If any provision of this Agreement or any Ancillary Agreement or the application thereof to any Person or circumstance is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions hereof or thereof, or the application of such provision to Persons or circumstances or in jurisdictions other than those as to which it has been held invalid or unenforceable, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby. Upon such determination, the Parties shall negotiate in good faith in an effort to agree upon such a suitable and equitable provision to effect the original intent of the Parties.

10.7 Force Majeure. No Party shall be deemed in default of this Agreement or, unless otherwise expressly provided therein, any Ancillary Agreement for any delay or failure to fulfill any obligation (other than a payment obligation) hereunder or thereunder so long as and to the extent to which any delay or failure in the fulfillment of such obligation is prevented, frustrated, hindered or delayed as a consequence of circumstances of Force Majeure. In the event of any such excused delay, the time for performance of such obligations (other than a payment obligation) shall be extended for a period equal to the time lost by reason of the delay. A Party claiming the benefit of this provision shall, as soon as reasonably practicable after the occurrence of any such event, (a) provide written notice to the other Party of the nature and extent of any such Force Majeure condition; and (b) use commercially reasonable efforts to remove any such causes and resume performance under this Agreement and the Ancillary Agreements, as applicable, as soon as reasonably practicable.

10.8 No Set-Off. Except as expressly set forth in any Ancillary Agreement or as otherwise mutually agreed to in writing by the Parties, neither Party nor any member of such Party's group shall have any right of set-off or other similar rights with respect to (a) any amounts received pursuant to this Agreement or any Ancillary Agreement; or (b) any other amounts claimed to be owed to the other Party or any member of its Group arising out of this Agreement or any Ancillary Agreement.

10.9 Expenses. Except as otherwise expressly set forth in this Agreement or any Ancillary Agreement, or as otherwise agreed to in writing by the Parties, all fees, costs and expenses incurred on or prior to the Effective Time in connection with the preparation, execution, delivery and implementation of this Agreement, including the Separation and the Distribution, and any Ancillary Agreement, the Separation, the Form 10, the Information Statement, the Separation Step Plan and the consummation of the transactions contemplated hereby and thereby will be borne by the Party or its applicable Subsidiary incurring such fees, costs or expenses. The Parties agree that certain specified costs and expenses shall be allocated between the Parties as set forth on Schedule 10.9.

10.10 Headings. The article, section and paragraph headings contained in this Agreement and in the Ancillary Agreements are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement or any Ancillary Agreement.

10.11 Survival of Covenants. Except as expressly set forth in this Agreement or any Ancillary Agreement, the covenants, representations and warranties contained in this Agreement and each Ancillary Agreement, and Liability for the breach of any obligations contained herein, shall survive the Separation and the Distribution and shall remain in full force and effect.

10.12 Waivers of Default. Waiver by a Party of any default by the other Party of any provision of this Agreement or any Ancillary Agreement shall not be deemed a waiver by the waiving Party of any subsequent or other default, nor shall it prejudice the rights of the other Party. No failure or delay by a Party in exercising any right, power or privilege under this Agreement or any Ancillary Agreement shall operate as a waiver thereof, nor shall a single or partial exercise thereof prejudice any other or further exercise thereof or the exercise of any other right, power or privilege.

10.13 Specific Performance. Subject to the provisions of Article VII, in the event of any actual or threatened default in, or breach of, any of the terms, conditions and provisions of this Agreement or any Ancillary Agreement, the Party or Parties who are, or are to be, thereby aggrieved shall have the right to specific performance and injunctive or other equitable relief in respect of its or their rights under this Agreement or such Ancillary 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 the remedies at law for any breach or threatened breach, including monetary damages, are inadequate compensation for any loss and that any defense in any action for specific performance that a remedy at law would be adequate is waived. Any requirements for the securing or posting of any bond with such remedy are waived by each of the Parties.

10.14 Amendments. No provisions of this Agreement or any Ancillary Agreement shall be deemed waived, amended, supplemented or modified by a Party, unless such waiver, amendment, supplement or modification is in writing and signed by the authorized representative of the Party against whom it is sought to enforce such waiver, amendment, supplement or modification.

10.15 Interpretation. In this Agreement and any Ancillary Agreement, (a) words in the singular shall be deemed to include the plural and vice versa and words of one gender shall be deemed to include the other genders as the context requires; (b) the terms "hereof," "herein," and "herewith" and words of similar import shall, unless otherwise stated, be construed to refer to this Agreement (or the applicable Ancillary Agreement) as a whole (including all of the Schedules, Exhibits and Appendices hereto and thereto) and not to any particular provision of this Agreement (or such Ancillary Agreement); (c) Article, Section, Schedule, Exhibit and Appendix references are to the Articles, Sections, Schedules, Exhibits and Appendices to this Agreement (or the applicable Ancillary Agreement) unless otherwise specified; (d) unless otherwise stated, all references to any agreement (including this Agreement and each Ancillary Agreement) shall be deemed to include the exhibits, schedules and annexes (including all Schedules, Exhibits and Appendices) to such agreement; (e) the word "including" and words of similar import when used in this Agreement (or the applicable Ancillary Agreement) shall mean "including, without limitation," unless otherwise specified; (f) the word "or" shall not be exclusive; (g) the word "extent" in the phrase "to the extent" shall mean the degree to which a subject or other thing extends, and such phrase shall not mean simply "if"; (h) unless otherwise specified in a particular case, the word "days" refers to calendar days; (i) references to "business day" shall mean any day other than a Saturday, a Sunday or a day on which banking institutions are generally authorized or required by law to close in the United States or Franklin Lakes, New Jersey; (j) references herein to this Agreement or any other agreement contemplated herein shall be deemed to refer to this Agreement or such other agreement as of the date on which it is executed and as it may be amended, modified or supplemented thereafter, unless otherwise specified; and (k) unless expressly stated to the contrary in this Agreement or in any Ancillary Agreement, all references to "the date hereof," "the date of this Agreement," "hereby" and "hereupon" and words of similar import shall all be references to March 31, 2022.

10.16 Limitations of Liability. Notwithstanding anything in this Agreement to the contrary, neither SpinCo or any member of the SpinCo Group, on the one hand, nor Parent or any member of the Parent Group, on the other hand, shall be liable under this Agreement to the other for any indirect, incidental, punitive, exemplary, remote, speculative or similar damages in excess of compensatory damages of the other arising in connection with the transactions contemplated hereby (other than any such Liability with respect to a Third-Party Claim).

10.17 Performance. Parent will cause to be performed, and hereby guarantees the performance of, all actions, agreements and obligations set forth in this Agreement or in any Ancillary Agreement to be performed by any member of the Parent Group. SpinCo will cause to be performed, and hereby guarantees the performance of, all actions, agreements and obligations set forth in this Agreement or in any Ancillary Agreement to be performed by any member of the SpinCo Group. Each Party (including its permitted successors and assigns) further agrees that it will (a) give timely notice of the terms, conditions and continuing obligations contained in this Agreement and any applicable Ancillary Agreement to all of the other members of its Group and (b) cause all of the other members of its Group not to take any action or fail to take any such action inconsistent with such Party's obligations under this Agreement, any Ancillary Agreement or the transactions contemplated hereby or thereby.

10.18 Mutual Drafting; Precedence.

(a) This Agreement and the Ancillary Agreements shall be deemed to be the joint work product of the Parties and any rule of construction that a document shall be interpreted or construed against a drafter of such document shall not be applicable.

(b) In the event of any conflict or inconsistency between, on the one hand, the terms of this Agreement and, on the other hand, the terms of the Ancillary Agreements (other than the Data Agreement and the Transfer Documents) (each, a "Specified Ancillary Agreement"), the terms of the applicable Specified Ancillary Agreement shall control with respect to the subject matter addressed by such Specified Ancillary Agreement to the extent of such conflict or inconsistency. In the event of any conflict or inconsistency between the terms of this Agreement and the terms of the Data Agreement or the Transfer Agreements, the terms of this Agreement shall control to the extent of such conflict or inconsistency.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Parties have caused this Separation and Distribution Agreement to be executed by their duly authorized representatives as of the date first written above.

BECTON, DICKINSON AND COMPANY

By: /s/ Christopher J. DelOrefice
Name: Christopher J. DelOrefice
Title: Executive Vice President and Chief Financial Officer

EMBECTA CORP.

By: /s/ Jacob Elguicze
Name: Jacob Elguicze
Title: Chief Financial Officer

[Signature Page to Separation and Distribution Agreement]

AMENDED AND RESTATED CERTIFICATE OF INCORPORATION OF EMBECTA CORP.

Embecta Corp. (the "Corporation"), a corporation organized and existing under the laws of the State of Delaware, pursuant to Sections 242 and 245 of the General Corporation Law of the State of Delaware, as it may be amended (the "DGCL"), hereby certifies as follows:

1. The name of this Corporation is Embecta Corp. The original Certificate of Incorporation was filed with the office of the Secretary of State of the State of Delaware on July 8, 2021. The name under which the Corporation was originally incorporated is Berra Newco, Inc.

2. This Amended and Restated Certificate of Incorporation was duly adopted by the Board of Directors of the Corporation (the "Board of Directors") in accordance with the provisions of Sections 242 and 245 of the DGCL and by the written consent of its sole stockholder in accordance with Section 228 of the DGCL, and is to become effective as of 11:59 p.m., Eastern Time, on March 31, 2022.

3. This Amended and Restated Certificate of Incorporation restates and amends the original Certificate of Incorporation, as it was amended on December 14, 2021, and further amended on March 22, 2022, to read in its entirety as follows:

ARTICLE I
NAME OF CORPORATION

The name of the Corporation is Embecta Corp.

ARTICLE II
REGISTERED OFFICE; REGISTERED AGENT

The address of the registered office of the Corporation in the State of Delaware is Corporation Trust Center, 1209 Orange Street, Wilmington, County of New Castle, Delaware 19801. The name of the registered agent of the Corporation at such address is The Corporation Trust Company. The Corporation may have such other offices, either inside or outside of the State of Delaware, as the Board of Directors may designate or as the business of the Corporation may from time to time require.

ARTICLE III
PURPOSE

The purpose of the Corporation is to engage in any lawful act or activity for which a corporation may be organized under the DGCL.

ARTICLE IV
STOCK

Section 1. Authorized Stock. The total number of authorized shares of capital stock of the Corporation shall be two hundred sixty million (260,000,000) shares, consisting of (i) two hundred fifty million (250,000,000) shares of common stock, par value $0.01 per share (the "Common Stock"), and (ii) ten million (10,000,000) shares of preferred stock, par value $0.01 per share (the "Preferred Stock").

Section 2. Common Stock. Except as otherwise provided by law, by this Amended and Restated Certificate of Incorporation, or by the resolution or resolutions adopted by the Board of Directors designating the rights, powers and preferences of any series of Preferred Stock, the holders of outstanding shares of Common Stock shall have the right to vote on all matters on which stockholders are entitled to vote, including the election of directors, to the exclusion of all other stockholders. Each holder of record of Common Stock shall be entitled to one (1) vote for each share of Common Stock standing in the name of the stockholder on the books of the Corporation.

Section 3. Preferred Stock. Shares of Preferred Stock may be authorized and issued in one (1) or more series. The Board of Directors (or any committee to which it may duly delegate the authority granted in this Article IV) is hereby empowered, by resolution or resolutions, to authorize the issuance from time to time of shares of Preferred Stock in one (1) or more series, for such consideration and for such corporate purposes as the Board of Directors (or such committee thereof) may from time to time determine, and by filing a certificate pursuant to applicable law of the State of Delaware as it presently exists or may hereafter be amended to establish from time to time for each such series the number of shares to be included in each such series and to fix the designations, powers, rights and preferences of the shares of each such series, and the qualifications, limitations and restrictions thereof to the fullest extent now or hereafter permitted by this Amended and Restated Certificate of Incorporation and the laws of the State of Delaware, including, without limitation, voting rights (if any), dividend rights, dissolution rights, conversion rights, exchange rights and redemption rights thereof, as shall be stated and expressed in a resolution or resolutions adopted by the Board of Directors (or such committee thereof) providing for the issuance of such series of Preferred Stock. Each series of Preferred Stock shall be distinctly designated. The authority of the Board of Directors with respect to each series of Preferred Stock shall include, but not be limited to, determination of the following:

(a) the designation of the series, which may be by distinguishing number, letter or title;

(b) the number of shares of the series, which number the Board of Directors may thereafter (except where otherwise provided in the certificate of designations governing such series) increase or decrease (but not below the number of shares thereof then outstanding);

(c) the amounts payable on, and the preferences, if any, of shares of the series in respect of dividends, and whether such dividends, if any, shall be cumulative or noncumulative;

(d) the dates at which dividends, if any, shall be payable;

(e) the redemption rights and price or prices, if any, for shares of the series;

(f) the terms and amount of any sinking fund provided for purchase or redemption of shares of the series;

(g) the amounts payable on, and the preferences, if any, of shares of the series in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation;

(h) whether shares of the series shall be convertible into or exchangeable for shares of any other class or series, or any other security, of the Corporation or any other corporation, and, if so, the specification of such other class or series or such other security, the conversion or exchange price or prices or rate or rates, any adjustments thereof, the date or dates at which such shares shall be convertible or exchangeable and all other terms and conditions upon which such conversion or exchange may be made;

(i) the restrictions on the issuance of shares of the same series or of any other class or series; and

(j) the voting rights, if any, of the holders of shares of the series.

ARTICLE V
TERM

The term of existence of the Corporation shall be perpetual.

ARTICLE VI
BOARD OF DIRECTORS

Section 1. Number of Directors. Subject to any rights of the holders of any class or series of Preferred Stock, the number of directors which shall constitute the Board of Directors shall be fixed from time to time exclusively pursuant to a resolution adopted by the affirmative vote of a majority of the total number of directors that the Corporation would have if there were no vacancies (the "Whole Board").

Section 2. Classes of Directors. Subject to the rights of the holders of any series of Preferred Stock provided for or fixed pursuant to this Amended and Restated Certificate of Incorporation (the "Preferred Stock Directors"), the Board of Directors shall be divided, with respect to the time for which they severally hold office, into three (3) classes, designated Class I, Class II and Class III, as nearly equal in number as reasonably possible. The first (1st) term of office for the Class I directors shall expire at the 2023 annual meeting of stockholders. The first (1st) term of office for the Class II directors shall expire at the 2024 annual meeting of stockholders. The first (1st) term of office for the Class III directors shall expire at the 2025 annual meeting of stockholders. At the 2023 annual meeting of stockholders, the Class I directors shall be elected for a term of office to expire at the 2026 annual meeting of stockholders. At the 2024 annual meeting of stockholders, the Class II directors shall be elected

for a term of office to expire at the 2026 annual meeting of stockholders. At the 2025 annual meeting of stockholders, the Class III directors shall be elected for a term of office to expire at the 2026 annual meeting of stockholders. Commencing at the 2026 annual meeting of stockholders and at all subsequent annual meetings of stockholders, the Board of Directors will no longer be classified under Section 141(d) of the DGCL, and all directors shall be elected for a term of office to expire at the next succeeding annual meeting of stockholders. Prior to the 2026 annual meeting of stockholders, in case of any increase or decrease, from time to time, in the number of directors (other than the Preferred Stock Directors), the number of directors in each class shall be apportioned as nearly equal in number as reasonably possible. The Board of Directors is authorized to assign members of the Board of Directors already in office to Class I, Class II or Class III, with such assignment becoming effective as of the time at which the initial classification of the Board of Directors becomes effective. Unless and except to the extent that the Amended and Restated Bylaws of the Corporation (as may hereafter be amended, the "Bylaws") shall so require, the election of directors of the Corporation need not be by written ballot. Advance notice of stockholder nominations for the election of directors shall be given in the manner and to the extent provided in the Bylaws.

Section 3. Newly Created Directorships and Vacancies. Subject to applicable law and the rights of the holders of any series of Preferred Stock with respect to such series of Preferred Stock, and unless the Board of Directors otherwise determines, vacancies resulting from death, resignation, retirement, disqualification, removal from office or other cause, and newly created directorships resulting from any increase in the authorized number of directors, may be filled only by the affirmative vote of a majority of the remaining directors, though less than a quorum of the Board of Directors, or by a sole remaining director, and directors so chosen shall hold office until the next election of the class, if any, for which such director shall have been chosen and until his or her successor shall have been duly elected and qualified or until any such director's earlier death, resignation, removal, retirement or disqualification. Notwithstanding the foregoing, from and after the 2026 annual meeting of stockholders, any director so chosen shall hold office until the next election of directors and until his or her successor shall have been duly elected and qualified or until any such director's earlier death, resignation, removal, retirement or disqualification. No decrease in the number of authorized directors constituting the Whole Board shall shorten the term of any incumbent director.

Section 4. Removal of Directors. Subject to the rights of the holders of any series of Preferred Stock, any director(s) of the Corporation may be removed from office at any time by the affirmative vote of the holders of at least a majority of the voting power of all outstanding shares of Common Stock entitled to vote generally in the election of directors, voting together as a single class (the "Voting Stock") (a) until the 2026 annual meeting of stockholders or such other time as the Board of Directors is no longer classified under Section 141(d) of the DGCL, only for cause by the affirmative vote of the holders of a majority of the Voting Stock and (b) from and including the 2026 annual meeting of stockholders or such other time as the Board of Directors is no longer classified under Section 141(d) of the DGCL, with or without cause, by the affirmative vote of the holders of a majority of the Voting Stock.

Section 5. Rights of Holders of Preferred Stock. Notwithstanding the provisions of this Article VI, whenever the holders of one (1) or more series of Preferred Stock issued by the Corporation shall have the right, voting separately or together by series, to elect

directors at an annual or special meeting of stockholders, the election, term of office, filling of vacancies and other features of such directorship shall be governed by the rights of such Preferred Stock as set forth in the certificate of designations governing such series.

Section 6. No Cumulative Voting. Except as may otherwise be set forth in the resolution or resolutions of the Board of Directors providing the issuance of a series of Preferred Stock, and then only with respect to such series of Preferred Stock, cumulative voting in the election of directors is specifically denied.

ARTICLE VII
STOCKHOLDER ACTION

Section 1. No Stockholder Action by Written Consent. Subject to the rights of the holders of any series of Preferred Stock with respect to such series of Preferred Stock, any action required or permitted to be taken by the stockholders of the Corporation must be effected at a duly called annual or special meeting of stockholders of the Corporation and may not be effected by any consent in writing by such stockholders.

Section 2. Special Meetings of Stockholders. Subject to the rights of the holders of any series of Preferred Stock with respect to such series of Preferred Stock, special meetings of stockholders may only be called by or at the direction of (1) the Chairman of the Board of Directors or (2) the Board of Directors pursuant to a resolution adopted by a majority of the Whole Board. At any special meeting of stockholders, only such business shall be conducted or considered as shall have been properly brought before the meeting pursuant to the Corporation's notice of meeting.

ARTICLE VIII
DIRECTOR LIABILITY

To the fullest extent permitted by the DGCL, as the same exists or may hereafter be amended, a director of the Corporation shall not be personally liable either to the Corporation or to any of its stockholders for monetary damages for breach of fiduciary duty as a director. Any amendment, modification or repeal of the foregoing sentence shall not adversely affect any right or protection of a director of the Corporation hereunder in respect of any act or omission occurring prior to the time of such amendment, modification or repeal. If the DGCL hereafter is amended to further eliminate or limit the liability of a director, then a director of the Corporation, in addition to the circumstances in which a director is not personally liable as set forth in the preceding sentence, shall not be liable to the fullest extent permitted by the amended DCGL.

ARTICLE IX
AMENDMENTS TO BYLAWS

Section 1. Board of Directors. In furtherance and not in limitation of the powers conferred by law, the Board of Directors is expressly authorized and empowered to adopt, amend, alter, change or repeal the Bylaws.

Section 2. Stockholders. The stockholders of the Corporation shall also have the power to adopt, amend, alter, change or repeal the Bylaws at any special meeting of the stockholders of the Corporation if duly called for that purpose (provided that, in the notice of such special meeting, notice of such purpose shall be given), or at any annual meeting, by the affirmative vote of the holders of a majority of the Voting Stock.

ARTICLE X
FORUM AND VENUE

Unless the Corporation (through approval of the Board of Directors) consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware shall be the sole and exclusive forum for (i) any derivative action or proceeding brought on behalf of the Corporation, (ii) any action or proceeding asserting a claim for or based on a breach of a fiduciary duty owed by any current or former director or officer or other employee of the Corporation to the Corporation or to the Corporation's stockholders, including any claim alleging aiding and abetting of such a breach of fiduciary duty, (iii) any action or proceeding asserting a claim against the Corporation or any current or former director or officer or other employee of the Corporation arising pursuant to, or seeking to enforce any right, obligation or remedy under, any provision of the DGCL or this Amended and Restated Certificate of Incorporation or the Bylaws (as either may be amended from time to time), (iv) any action or proceeding asserting a claim related to or involving the Corporation or any current or former director or officer or other employee of the Corporation that is governed by the internal affairs doctrine, or (v) any action or proceeding as to which the DGCL (as it may be amended from time to time) confers jurisdiction on the Court of Chancery of the State of Delaware; provided that, if and only if the Court of Chancery of the State of Delaware dismisses any such action for lack of subject matter jurisdiction, such action or proceeding may be brought in another state court located within the State of Delaware (or, if no state court located within the State of Delaware has jurisdiction, the federal court for the District of Delaware). Any person or entity purchasing or otherwise acquiring or holding any interest in shares of capital stock of the Corporation shall be deemed to have notice of and to have consented to the personal jurisdiction of the state and federal courts located within the State of Delaware. If any provision or provisions of this Article X shall be held to be invalid, illegal or unenforceable for any reason whatsoever, the validity, legality and enforceability of the remaining provisions of this Article X shall not in any way be affected or impaired thereby.

ARTICLE XI
AMENDMENTS

The Corporation reserves the right to amend, alter, change or repeal any provision contained in this Amended and Restated Certificate of Incorporation, in the manner now or hereafter prescribed by the laws of the State of Delaware, and all rights herein are granted subject to this reservation.

IN WITNESS WHEREOF, the undersigned has duly executed this Amended and Restated Certificate of Incorporation, this 31st day of March, 2022.

By: /s/ Gary DeFazio
Name: Gary DeFazio
Title: Secretary

AMENDED AND RESTATED BYLAWS OF EMBECTA CORP.

These Amended and Restated Bylaws (these "Bylaws") of Embecta Corp., a Delaware corporation (the "Corporation"), are effective as of March 31, 2022 and hereby amend and restate the previous amended and restated bylaws of the Corporation in its entirety:

ARTICLE 1
OFFICES AND RECORDS

Section 1. Offices. The address of the registered office of the Corporation in the State of Delaware shall be as stated from time to time in the Certificate of Incorporation of the Corporation (as amended, the "Certificate of Incorporation"). The Corporation may have such other offices, either inside or outside of the State of Delaware, as the Board of Directors may designate or as the business of the Corporation may from time to time require.

Section 2. Books and Records. The books and records of the Corporation may be kept inside or outside the State of Delaware at such place or places as may from time to time be designated by the Board of Directors.

ARTICLE 2
STOCKHOLDERS

Section 1. Meetings.

(a) Annual Meeting. The annual meeting of the stockholders of the Corporation shall be held on such date and time as may be fixed by resolution of the Board of Directors.

(b) Special Meeting. Subject to the rights of the holders of any series of stock having a preference over the Common Stock of the Corporation as to dividends, voting or upon liquidation (the "Preferred Stock") with respect to such series of Preferred Stock, special meetings of the stockholders may only be called by or at the direction of (i) the Chairman of the Board of Directors or (ii) the Board of Directors pursuant to a resolution adopted by a majority of the total number of directors which the Corporation would have if there were no vacancies (the "Whole Board").

(c) Place of Meeting / Record Date. The Board of Directors or the Chairman of the Board of Directors, as the case may be, may designate the place of meeting for any annual or special meeting of the stockholders or may designate that the meeting be held by means of remote communication. If no designation is so made, the place of meeting shall be the principal office of the Corporation. The record date for, and the date and time of, any special meeting shall be fixed by the Board of Directors.

(d) Notice of Meeting. Written or printed notice, stating the place, if any, date and hour of the meeting, the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such meeting, and in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be given by the Corporation not less than ten (10) days nor more than sixty (60) days before the date of the meeting, either personally, by electronic transmission in the manner provided in Section 232 of the General Corporation Law of the State of Delaware (as amended, the "DGCL") (except to the extent prohibited by Section 232(e) of the General Corporation Law of the State of Delaware) or by mail, to each stockholder of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be given when deposited in the United States mail with postage thereon prepaid, addressed to the stockholder at such stockholder's address as it appears on the records of the Corporation. If notice is given by electronic transmission, such notice shall be deemed to be given at the times provided in the DGCL. Such further notice shall be given as may be required by applicable law. Meetings may be held without notice if all stockholders entitled to vote are present, or if notice is waived by those not present in accordance with Article VIII, Section 2 of these Bylaws. Any previously scheduled meeting of the stockholders may be postponed, and unless the Certificate of Incorporation otherwise provides, any special meeting of the stockholders may be cancelled, by resolution of the Board of Directors upon public notice given prior to the date previously scheduled for such meeting of stockholders.

(e) Quorum and Adjournment. Except as otherwise provided by law or by the Certificate of Incorporation, the holders of a majority of the outstanding shares of the Corporation entitled to vote generally in the election of directors (the "Voting Stock"), represented in person or by proxy, shall constitute a quorum at a meeting of stockholders, except that when specified business is to be voted on by a class or series of stock voting as a class, the holders of a majority of the shares of such class or series shall constitute a quorum of such class or series for the transaction of such business. The Chairman of the Board of Directors or the Chief Executive Officer may adjourn the meeting from time to time, whether or not there is a quorum. No notice of the time and place, if any, of adjourned meetings need be given except as required by applicable law. The stockholders present at a duly called meeting at which a quorum is present may continue to transact business until adjournment, notwithstanding the withdrawal of enough stockholders to leave less than a quorum.

(f) Organization. Meetings of stockholders shall be presided over by such person as the Board of Directors may designate as chairman of the meeting, or in the absence of such a person, the Chairman of the Board of the Directors, or if none or in the Chairman of the Board of Directors' absence or inability to act, the Chief Executive Officer, or if none or in the Chief Executive Officer's absence or inability to act, the President, or if none or in the President's absence or inability to act, a Vice President, or, if none of the foregoing is present or able to act, by a chairman to be chosen by the holders of a majority of the shares entitled to vote who are present in person or by proxy at the meeting. The Secretary, or in the Secretary's absence, an Assistant Secretary, shall act as secretary of every meeting, but if neither the Secretary nor an Assistant Secretary is present, the presiding officer of the meeting shall appoint any person present to act as secretary of the meeting. The Board of Directors shall be entitled to make such rules or regulations for the conduct of meetings of stockholders as it shall deem necessary, appropriate or convenient. Subject to such rules and regulations of the Board of Directors, if any, the chairman of the meeting shall have the right and authority to prescribe such rules, regulations and procedures and to do all such acts as, in the judgment of such chairman, are necessary, appropriate or convenient for the proper conduct of the meeting, including,

without limitation, establishing an agenda or order of business for the meeting, rules and procedures for maintaining order at the meeting and the safety of those present, limitations on participation in the meeting to stockholders of record of the Corporation, their duly authorized and constituted proxies and such other persons as the chairman shall permit, restrictions on entry to the meeting after the time fixed for the commencement thereof, limitations on the time allotted to questions or comments by participants and regulation of the opening and closing of the polls for balloting and matters which are to be voted on by ballot.

(g) Proxies. At all meetings of stockholders, a stockholder may vote by proxy executed in writing (or in such manner prescribed by the DGCL) by the stockholder, or by such stockholder's duly authorized attorney in fact.

Section 2. Order of Business.

(a) Annual Meetings of Stockholders. At any annual meeting of the stockholders, only such nominations of individuals for election to the Board of Directors shall be made, and only such other business shall be conducted or considered, as shall have been properly brought before the meeting. For nominations to be properly made at an annual meeting, and proposals of other business to be properly brought before an annual meeting, nominations and proposals of other business must be: (i) specified in the Corporation's notice of meeting (or any supplement thereto) given by or at the direction of the Board of Directors, (ii) otherwise properly made at the annual meeting, by or at the direction of the Board of Directors or (iii) otherwise properly requested to be brought before the annual meeting by a stockholder of the Corporation in accordance with these Bylaws. For nominations of individuals for election to the Board of Directors or proposals of other business to be properly requested by a stockholder to be made at an annual meeting, a stockholder must (A) be a stockholder of record at the time of giving of notice of such annual meeting by or at the direction of the Board of Directors and at the time of the annual meeting, (B) be entitled to vote at such annual meeting and (C) comply with the procedures set forth in these Bylaws as to such business or nomination. Subject to Article II, Section 8 of these Bylaws, the immediately preceding sentence shall be the exclusive means for a stockholder to make nominations or other business proposals (other than matters properly brought under Rule 14a-8 under the Securities Exchange Act of 1934, as amended (the "Exchange Act") and included in the Corporation's notice of meeting) before an annual meeting of stockholders.

(b) Special Meetings of Stockholders. At any special meeting of the stockholders, only such business shall be conducted or considered as shall have been properly brought before the meeting pursuant to the Corporation's notice of meeting. To be properly brought before a special meeting, proposals of business must be (i) specified in the Corporation's notice of meeting (or any supplement thereto) given by or at the direction of the Board of Directors or (ii) otherwise properly brought before the special meeting, by or at the direction of the Board of Directors; provided, however, that nothing herein shall prohibit the Board of Directors from submitting additional matters to stockholders at any such special meeting. If the Board of Directors has determined that directors shall be elected at a special meeting of stockholders and the Corporation's notice of meeting specifies that such business shall be conducted at the special meeting, then nominations of individuals for election to the Board of Directors may be made at such special meeting by any stockholder of the Corporation who (A) is

a stockholder of record at the time of giving of notice of such special meeting and at the time of the special meeting, (B) is entitled to vote at the meeting, and (C) complies with the procedures set forth in these Bylaws as to such nomination. This Article II, Section 2(b) shall be the exclusive means for a stockholder to make nominations or other business proposals before a special meeting of stockholders.

(c) General. Except as otherwise provided by law, the Certificate of Incorporation or these Bylaws, the chairman of any annual or special meeting shall have the power 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 these Bylaws and, if any proposed nomination or other business is not in compliance with these Bylaws, to declare that no action shall be taken on such nomination or other proposal and such nomination or other proposal shall be disregarded.

Section 3. Advance Notice of Nominations and Business.

(a) Annual Meeting of Stockholders. Without qualification or limitation, subject to Article II, Section 3(c)(v) of these Bylaws, for any nominations or any other business to be properly brought before an annual meeting by a stockholder pursuant to Article II, Section 2(a) of these Bylaws, the stockholder must have given timely notice thereof (including, in the case of any nomination of individuals for election to the Board of Directors, the completed and signed questionnaire, representation and agreement required by Article II, Section 4 of these Bylaws), and timely updates and supplements thereof, in each case in proper form, in writing to the Secretary, and such other business must otherwise be a proper matter for stockholder action.

To be timely, a stockholder's notice shall be delivered to the Secretary at the principal executive offices of the Corporation not earlier than the close of business on the one hundred twentieth (120th) day and not later than the close of business on the ninetieth (90th) day prior to the first (1st) anniversary of the preceding year's annual meeting; provided, however, that in the event that the date of the annual meeting is more than thirty (30) days before or more than sixty (60) days after such anniversary date, notice by the stockholder must be so delivered not earlier than the close of business on the one hundred twentieth (120th) day prior to the date of such annual meeting and not later than the close of business on the later of the ninetieth (90th) day prior to the date of such annual meeting or, if the first (1st) public announcement of the date of such annual meeting is less than one hundred (100) days prior to the date of such annual meeting, the tenth (10th) day following the day on which public announcement of the date of such meeting is first made by the Corporation. In no event shall any adjournment or postponement of an annual meeting, or the public announcement thereof, commence a new time period for the giving of a stockholder's notice as described above.

Notwithstanding anything in the immediately preceding paragraph to the contrary, in the event that the number of directors to be elected to the Board of Directors is increased by the Board of Directors, and there is no public announcement by the Corporation naming all of the nominees for director or specifying the size of the increased Board of Directors at least seventy (70) days prior to the first (1st) anniversary of the preceding year's annual meeting, a stockholder's notice required by this Article II, Section 3(a) shall also be considered timely, but only with respect to nominees for any new positions created by such increase, if it shall be

delivered to the Secretary at the principal executive offices of the Corporation not later than the close of business on the tenth (10th) day following the day on which such public announcement is first made by the Corporation. The number of nominees a stockholder may nominate for election shall not exceed the number of directors to be elected at the annual meeting.

In addition, to be considered timely, a stockholder's notice shall further be updated and supplemented, if necessary, so that the information provided or required to be provided in such notice shall be true and correct as of the record date for the meeting and as of the date that is ten (10) days prior to the meeting or any adjournment or postponement thereof, and such update and supplement shall be delivered to the Secretary at the principal executive offices of the Corporation not later than five (5) days after the record date for the meeting in the case of the update and supplement required to be made as of the record date, and not later than eight (8) days prior to the date for the meeting or any adjournment or postponement thereof in the case of the update and supplement required to be made as of ten (10) days prior to the meeting or any adjournment or postponement thereof. The obligation to update and supplement as set forth in this paragraph or any other Section of these Bylaws shall not limit the Corporation's rights with respect to any deficiencies in any notice provided by a stockholder, extend any applicable deadlines hereunder or enable or be deemed to permit a stockholder who has previously submitted notice hereunder to amend or update any proposal or to submit any new proposal, including by changing or adding nominees, matters, business and or resolutions proposed to be brought before a meeting of the stockholders.

(b) Special Meetings of Stockholders. Only such business shall be conducted at a special meeting of stockholders as shall have been brought before the meeting pursuant to the Corporation's notice of meeting, subject to the provisions of Article II, Section 2(b) of these Bylaws. Subject to Article II, Section 3(c)(v) of these Bylaws, if the Corporation calls a special meeting of stockholders for the purpose of electing one (1) or more directors to the Board of Directors, then, subject to the provisions of Article II, Section 2(b) of these Bylaws, any stockholder may nominate an individual or individuals (as the case may be) for election to such position(s) as specified in the Corporation's notice of meeting, provided that, the stockholder gives timely notice thereof (including the completed and signed questionnaire, representation and agreement required by Article II, Section 4 of these Bylaws), and timely updates and supplements thereof in each case in proper form, in writing, to the Secretary.

To be timely, a stockholder's notice shall be delivered to the Secretary at the principal executive offices of the Corporation not earlier than the close of business on the one hundred twentieth (120th) day prior to the date of such special meeting and not later than the close of business on the later of the ninetieth (90th) day prior to the date of such special meeting or, if the first (1st) public announcement of the date of such special meeting is less than one hundred (100) days prior to the date of such special meeting, the tenth (10th) day following the day on which public announcement is first made of the date of the special meeting and of the nominees proposed by the Board of Directors to be elected at such meeting. In no event shall any adjournment or postponement of a special meeting of stockholders, or the public announcement thereof, commence a new time period for the giving of a stockholder's notice as described above.

In addition, to be considered timely, a stockholder's notice shall further be updated and supplemented, if necessary, so that the information provided or required to be provided in such notice shall be true and correct as of the record date for the meeting and as of the date that is ten (10) days prior to the meeting or any adjournment or postponement thereof, and such update and supplement shall be delivered to the Secretary at the principal executive offices of the Corporation not later than five (5) days after the record date for the meeting in the case of the update and supplement required to be made as of the record date, and not later than eight (8) days prior to the date for the meeting, any adjournment or postponement thereof in the case of the update and supplement required to be made as of ten (10) days prior to the meeting or any adjournment or postponement thereof.

(c) Disclosure Requirements.

(i) To be in proper form, a stockholder's notice pursuant to Article II, Section 2 or this Article II, Section 3 of these Bylaws must include the following, as applicable:

(A) As to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the nomination or proposal, as applicable, is made, a stockholder's notice must set forth: (1) the name and address of such stockholder, as they appear on the Corporation's books, of such beneficial owner, if any, and of their respective affiliates or associates or others acting in concert therewith, if any, (2) (a) the class or series and number of shares of the Corporation which are, directly or indirectly, owned beneficially and of record by such stockholder, such beneficial owner, if any, and their respective affiliates or associates or others acting in concert therewith, if any, together with proof of ownership similar to that required under Rule 14a-8 of the Exchange Act, (b) any option, warrant, convertible security, stock appreciation right, or similar right with an exercise or conversion privilege or a settlement payment or mechanism at a price related to any class or series of shares of the Corporation or with a value derived in whole or in part from the value of any class or series of shares of the Corporation, or any derivative or synthetic arrangement having the characteristics of a long position in any class or series of shares of the Corporation, or any contract, future, forward, derivative, swap or other transaction or series of transactions designed to produce economic benefits and risks that correspond substantially to the ownership of any class or series of shares of the Corporation, including due to the fact that the value of such contract, future, forward, derivative, swap or other transaction or series of transactions is determined by reference to the price, value or volatility of any class or series of shares of the Corporation, whether or not such instrument, contract or right shall be subject to settlement in the underlying class or series of shares of the Corporation, through the delivery of cash or other property, or otherwise, and without regard to whether the stockholder of record, the beneficial owner, if any, or any affiliates or associates or others acting in concert therewith, if any, may have entered into transactions that hedge or mitigate the economic

effect of such instrument, contract or right, or any other direct or indirect opportunity to profit or share in any profit (including profits interests) derived from any increase or decrease in the value of shares of the Corporation (any of the foregoing, a "Derivative Instrument") directly or indirectly owned beneficially by such stockholder, the beneficial owner, if any, or any affiliates or associates or others acting in concert therewith, if any, (c) any proxy, contract, agreement, arrangement, understanding, or relationship (whether written or oral) pursuant to which such stockholder, such beneficial owner, if any, or any of their respective affiliates or associates or others acting in concert therewith, if any, has any right to vote any class or series of shares of the Corporation, (d) any agreement, arrangement, understanding, relationship or otherwise, including any repurchase or similar so-called "stock borrowing" or "stock loaning" agreement or arrangement, involving such stockholder, such beneficial owner, if any, or any of their respective affiliates or associates or others acting in concert therewith, if any, directly or indirectly, the purpose or effect of which is to mitigate loss to, reduce the economic risk (of ownership or otherwise) of any class or series of the shares of the Corporation by, manage the risk or benefit of share price changes for, or increase or decrease the voting power of, such stockholder, such beneficial owner, if any, or any of their respective affiliates or associates or others acting in concert therewith, if any, with respect to any class or series of the shares of the Corporation, or which provides, directly or indirectly, the opportunity to profit or share in any profit derived from any decrease in the price or value of any class or series of the shares of the Corporation (any of the foregoing, a "Short Interest"), (e) any rights to dividends on the shares of the Corporation owned beneficially by such stockholder, such beneficial owner, if any, or any of their respective affiliates or associates or others acting in concert therewith, if any, that are separated or separable from the underlying shares of the Corporation, (f) any proportionate interest in shares of the Corporation or Derivative Instruments held, directly or indirectly, by a general or limited partnership in which such stockholder, such beneficial owner, if any, or any of their respective affiliates or associates or others acting in concert therewith, if any, is a general partner or, directly or indirectly, beneficially owns an interest in a general partner of such general or limited partnership, (g) any performance-related fees (other than an asset-based fee) to which such stockholder, such beneficial owner, if any, or any of their respective affiliates or associates or others acting in concert therewith, if any, is entitled based on any increase or decrease in the value of shares of the Corporation or Derivative Instruments, if any, including without limitation any such interests held by members of the immediate family sharing the same household of such stockholder, such beneficial owner, if any, and their respective affiliates or associates or others acting in concert therewith, if any, (h) any significant equity interests or any Derivative Instruments or Short Interests in any principal competitor of the

Corporation held by such stockholder, such beneficial owner, if any, or any of their respective affiliates or associates or others acting in concert therewith, if any, and (i) any direct or indirect interest of such stockholder, such beneficial owner, if any, and their respective affiliates or associates or others acting in concert therewith, if any, in any contract with the Corporation, any affiliate of the Corporation or any principal competitor of the Corporation (including, in any such case, any employment agreement, collective bargaining agreement or consulting agreement), (3) all information that would be required to be set forth in a Schedule 13D filed pursuant to Rule 13d-1(a) or an amendment pursuant to Rule 13d-2(a) if such a statement were required to be filed under the Exchange Act and the rules and regulations promulgated thereunder by such stockholder, such beneficial owner, if any, and their respective affiliates or associates or others acting in concert therewith, if any, and (4) any other information relating to such stockholder, such beneficial owner, if any, or any of their respective affiliates or associates or others acting in concert therewith, if any, that would be required to be disclosed in a proxy statement and form of proxy or other filings required to be made in connection with solicitations of proxies for, as applicable, the proposal and/or for the election of directors in a contested election pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder;

(B) If the notice relates to any business other than a nomination of a director or directors that the stockholder proposes to bring before the meeting, a stockholder's notice must, in addition to the matters set forth in paragraph (A) above, also set forth: (1) a brief description of the business desired to be brought before the meeting, the reasons for conducting such business at the meeting and any material interest of such stockholder, such beneficial owner, if any, and each of their respective affiliates or associates or others acting in concert therewith, if any, in such business, (2) the text of the proposal or business (including the text of any resolutions proposed for consideration and, in the event that such proposal or business includes a proposal to amend the Bylaws of the Corporation, the text of the proposed amendment), and (3) a description of all agreements, arrangements and understandings (whether written or oral) between such stockholder, such beneficial owner, if any, and any of their respective affiliates or associates or others acting in concert therewith, if any, and any other person or persons (including their names) in connection with the proposal of such business by such stockholder;

(C) As to each individual, if any, whom the stockholder proposes to nominate for election or reelection to the Board of Directors, a stockholder's notice must, in addition to the matters set forth in paragraph (A) above, also set forth: (1) the name, age, business and residence addresses of such person, (2) the principal occupation or employment of such person, (3) all information relating to such individual that would be required to be disclosed in a proxy statement or other filings required to be

made in connection with solicitations of proxies for election of directors in a contested election pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder (including such individual's written consent to being named in any proxy statement relating to the Corporation's next annual meeting or special meeting, as applicable, and to serving as a director if elected) and (4) a reasonably detailed description of all direct and indirect compensation and other monetary agreements, arrangements and understandings (whether written or oral), including the amount of any payment or payments received or receivable thereunder, and any other material relationships, between or among such stockholder and beneficial owner, if any, and their respective affiliates and associates, or others acting in concert therewith, if any, on the one hand, and each proposed nominee, and his or her respective affiliates and associates, or others acting in concert therewith, if any, on the other hand, including, without limitation, all information that would be required to be disclosed pursuant to Rule 404 or any successor provision promulgated under Regulation S-K if the stockholder making the nomination and any beneficial owner on whose behalf the nomination is made, if any, or any affiliate or associate thereof or person acting in concert therewith, if any, were the "registrant" for purposes of such rule and the nominee were a director or executive officer of such registrant; and

(D) With respect to each individual, if any, whom the stockholder proposes to nominate for election or reelection to the Board of Directors, a stockholder's notice must, in addition to the matters set forth in paragraphs (A) and (C) above, also include a completed and signed questionnaire, representation and agreement required by Article II, Section 4 of these Bylaws. The Corporation may require any proposed nominee to furnish such other information as may reasonably be required by the Corporation to determine the eligibility of such proposed nominee to serve as an independent director of the Corporation or that could be material to a reasonable stockholder's understanding of the independence, or lack thereof, of such nominee. Notwithstanding anything to the contrary, only persons who are nominated in accordance with the procedures set forth in these Bylaws, including without limitation, Article II, Sections 2, 3 or 4, shall be eligible for election as directors.

(ii) A stockholder seeking to submit business at a meeting must promptly provide any other information reasonably requested by the Corporation. Unless otherwise required by applicable law, if the stockholder (or a qualified representative of the stockholder) submitting business does not appear at a meeting of stockholders to present such business, the nomination shall be disregarded and the proposed business shall not be transacted, as the case may be, notwithstanding that proxies in favor thereof may have been received by the Corporation.

(iii) For purposes of these Bylaws, "public announcement" shall mean disclosure in a press release reported by a national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the Exchange Act and the rules and regulations promulgated thereunder.

(iv) Notwithstanding the provisions of these Bylaws, a stockholder shall also comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to the matters set forth in this Bylaw; provided, however, that any references in these Bylaws to the Exchange Act or the rules promulgated thereunder are not intended to and shall not limit the separate and additional requirements set forth in these Bylaws with respect to nominations or proposals as to any other business to be considered. Notwithstanding anything to the contrary contained in this Article II, Section 3, the Board of Directors may waive any of the provisions of this Article II, Section 3.

(v) Nothing in these Bylaws shall be deemed to affect any rights (i) of stockholders to request inclusion of proposals in the Corporation's proxy statement pursuant to Rule 14a-8 under the Exchange Act or (ii) of the holders of any series of Preferred Stock if and to the extent provided for under law, the Certificate of Incorporation or these Bylaws. Subject to Rule 14a-8 under the Exchange Act, nothing in these Bylaws shall be construed to permit any stockholder, or give any stockholder the right, to include or have disseminated or described in the Corporation's proxy statement any nomination of a director or directors or any other business proposal.

Section 4. Submission of Questionnaire, Representation and Agreement. To be eligible to be a nominee for election or reelection as a director of the Corporation, a person nominated by a stockholder for election or reelection to the Board of Directors must deliver (in accordance with the time periods prescribed for delivery of notice under Article II, Section 3 of these Bylaws) to the Secretary at the principal executive offices of the Corporation a written questionnaire with respect to the background and qualification of such individual and the background of any other person or entity on whose behalf, directly or indirectly, the nomination is being made (which questionnaire shall be provided by the Secretary upon written request), and a written representation and agreement (in the form provided by the Secretary upon written request) that such individual (a) is not and will not become a party to (i) any agreement, arrangement or understanding (whether written or oral) with, and has not given any commitment or assurance to, any person or entity as to how such person, if elected as a director of the Corporation, will act or vote on any issue or question (a "Voting Commitment") that has not been disclosed to the Corporation, or (ii) any Voting Commitment that could limit or interfere with such individual's ability to comply, if elected as a director of the Corporation, with such individual's fiduciary duties under applicable law, (b) is not and will not become a party to any agreement, arrangement or understanding (whether written or oral) with any person or entity other than the Corporation with respect to any direct or indirect compensation, reimbursement or indemnification in connection with service or action as a director that has not been disclosed therein, (c) will comply with the Corporation's corporate governance guidelines and other policies applicable to its directors, and has disclosed therein whether all or any portion of securities of the Corporation were purchased with any financial assistance provided by any other person and whether any other person has any interest in such securities, (d) in such individual's personal capacity and on behalf of any person or entity on whose behalf, directly or indirectly,

the nomination is being made, would be in compliance, if elected as a director of the Corporation, and will comply, with all applicable corporate governance, conflict of interest, confidentiality and stock ownership and trading policies and guidelines of the Corporation publicly disclosed from time to time, (e) consents to being named as a nominee in any proxy statement relating to the next annual meeting or special meeting, as applicable, pursuant to Rule 14a-4(d) under the Exchange Act and any associated proxy card and agrees to serve if elected as a director, and (f) will abide by the requirements of Article II, Section 5 of these Bylaws.

Section 5. Procedure for Election of Directors; Required Vote.

(a) Except as set forth below, election of directors at all meetings of the stockholders at which directors are to be elected shall be by ballot, and, subject to the rights of the holders of any series of Preferred Stock, a majority of the votes cast at any meeting for the election of directors at which a quorum is present shall elect directors. For purposes of this Bylaw, a majority of votes cast shall mean that the number of shares voted "for" a director's election exceeds fifty percent (50%) of the number of votes cast with respect to that director's election. Votes cast shall include votes against in each case and exclude abstentions and broker nonvotes with respect to that director's election. Notwithstanding the foregoing, in the event of a "contested election" of directors, directors shall be elected by the vote of a plurality of the votes cast at any meeting for the election of directors at which a quorum is present. For purposes of this Bylaw, a "contested election" shall mean any election of directors in which the number of candidates for election as directors exceeds the number of directors to be elected, with the determination thereof being made by the Secretary as of the later of (i) the close of the applicable notice of nomination period set forth in Article II, Section 3 of these Bylaws or under applicable law and (ii) the last day on which a Nomination Notice may be delivered in accordance with the procedures set forth in Article II, Section 8, based on whether one (1) or more notice(s) of nomination or Nomination Notice(s) were timely filed in accordance with said Article II, Section 3 and/or Section 8, as applicable; provided, however, that the determination that an election is a "contested election" shall be determinative only as to the timeliness of a notice of nomination and not otherwise as to its validity. If, prior to the time the Corporation mails its initial proxy statement in connection with such election of directors, one (1) or more notices of nomination are withdrawn such that the number of candidates for election as director no longer exceeds the number of directors to be elected, the election shall not be considered a contested election, but in all other cases, once an election is determined to be a contested election, directors shall be elected by the vote of a plurality of the votes cast.

(b) If a nominee for director who is an incumbent director is not elected and no successor has been elected at such meeting, the director shall promptly tender his or her resignation to the Board of Directors in accordance with the agreement contemplated by Article II, Section 4 of these Bylaws. The Corporate Governance and Nominating Committee shall make a recommendation to the Board of Directors as to whether to accept or reject the tendered resignation, or whether other action should be taken. The Board of Directors shall act on the tendered resignation, taking into account the Corporate Governance and Nominating Committee's recommendation, and publicly disclose (by a press release, a filing with the Securities and Exchange Commission or other broadly disseminated means of communication) its decision regarding the tendered resignation and the rationale behind the decision within ninety (90) days from the date of the certification of the election results. The Corporate Governance

and Nominating Committee in making its recommendation, and the Board of Directors in making its decision, may each consider any factors or other information that it considers appropriate and relevant. The director who tenders his or her resignation shall not participate in the recommendation of the Corporate Governance and Nominating Committee or the decision of the Board of Directors with respect to his or her resignation. If such incumbent director's resignation is not accepted by the Board of Directors, such director shall continue to serve until the next annual meeting and until his or her successor is duly elected, or his or her earlier resignation or removal. If a director's resignation is accepted by the Board of Directors pursuant to this Bylaw, or if a nominee for director is not elected and the nominee is not an incumbent director, then the Board of Directors, in its sole discretion, may fill any resulting vacancy pursuant to the provisions of Article III, Section 8 of these Bylaws or may decrease the size of the Board of Directors pursuant to the provisions of Article III, Section 2 of these Bylaws.

(c) Except as otherwise provided by law, the Certificate of Incorporation, or these Bylaws, in all matters other than the election of directors, the affirmative vote of a majority of the shares present in person or represented by proxy at the meeting and entitled to vote on the matter shall be the act of the stockholders.

(d) Any individual who is nominated for election to the Board of Directors and included in the Corporation's proxy materials for an annual meeting, including pursuant to Article II, Section 8 shall tender an irrevocable resignation effective immediately, upon a determination by the Board of Directors or any committee thereof that (1) the information provided to the Corporation by such individual, or if applicable, by the Eligible Stockholder (or any stockholder, fund that is a Qualifying Fund (as defined in Article II, Section 8) and/or beneficial owner whose stock ownership is counted for the purposes of qualifying as an Eligible Stockholder) who nominated such individual, was untrue in any material respect or omitted to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading or (2) such individual, or if applicable, the Eligible Stockholder (including each stockholder, fund that is a Qualifying Fund and/or beneficial owner whose stock ownership is counted for the purposes of qualifying as an Eligible Stockholder) who nominated such individual, shall have breached any representations or obligations owed to the Corporation under these Bylaws.

Section 6. Inspectors of Elections; Opening and Closing the Polls. The Board of Directors by resolution shall appoint one (1) or more inspectors, which inspector or inspectors may, but does not need to, include individuals who serve the Corporation in other capacities, including, without limitation, as officers, employees, agents or representatives, to act at the meetings of stockholders and make a written report thereof. One (1) or more persons may be designated as alternate inspectors to replace any inspector who fails to act. If no inspector or alternate has been appointed to act or is able to act at a meeting of stockholders, the chairman of the meeting shall appoint one (1) or more inspectors to act at the meeting. Each inspector, before discharging 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. The inspectors shall have the duties prescribed by law.

The chairman of the meeting shall fix and announce at the meeting the date and time of the opening and the closing of the polls for the matters upon which the stockholders will vote at a meeting.

Section 7. No Stockholder Action by Written Consent. Subject to the rights of the holders of any series of Preferred Stock with respect to such series of Preferred Stock, any action required or permitted to be taken by the stockholders of the Corporation must be effected at a duly called annual or special meeting of stockholders of the Corporation and may not be effected by any consent in writing by such stockholders.

Section 8. Inclusion of Stockholder Nominees in Proxy Statement.

(a) Subject to the provisions of this Article II, Section 8, if expressly requested in the relevant Nomination Notice (as defined below), the Corporation shall include in its proxy statement for any annual meeting of stockholders (but not at any special meeting of stockholders): (i) the names of any person or persons nominated for election (each, a "Stockholder Nominee"), which shall also be included on the Corporation's form of proxy and ballot, by any Eligible Stockholder (as defined below) or group of up to twenty (20) Eligible Stockholders that, as determined by the Board of Directors, has (individually and collectively, in the case of a group) satisfied all applicable conditions and complied with all applicable procedures set forth in this Article II, Section 8 (such Eligible Stockholder or group of Eligible Stockholders being a "Nominating Stockholder"); (ii) disclosure about each Stockholder Nominee and the Nominating Stockholder required under the rules of the Securities and Exchange Commission or other applicable law to be included in the proxy statement; (iii) any statement included by the Nominating Stockholder in the Nomination Notice for inclusion in the proxy statement in support of each Stockholder Nominee's election to the Board of Directors (subject, without limitation, to Article II, Section 8(d)(ii); provided that, such statement does not exceed five hundred (500) words and fully complies with Section 14 of the Exchange Act and the rules and regulations thereunder, including Rule 14a-9 (the "Supporting Statement")); and (iv) any other information that the Corporation or the Board of Directors determines, in its discretion, to include in the proxy statement relating to the nomination of each Stockholder Nominee, including, without limitation, any statement in opposition to the nomination, any information relating to the Eligible Stockholder or Stockholder Nominee any of the information provided pursuant to this Article II, Section 8 and any solicitation materials or related information with respect to a Stockholder Nominee.

For purposes of this Article II, Section 8, any determination to be made by the Board of Directors may be made by the Board of Directors, a committee of the Board of Directors or any officer designated by the Board of Directors or a committee of the Board of Directors, and any such determination shall be final and binding on the Corporation, any Eligible Stockholder, any Nominating Stockholder, any Stockholder Nominee and any other person so long as it is made in good faith (without any further requirements). The chairman of any annual meeting of stockholders, in addition to making any other determinations that may be appropriate to the conduct of the meeting, shall have the power and duty to determine whether a Stockholder Nominee has been nominated in accordance with the requirements of this Article II, Section 8 and, if not so nominated, shall direct and declare at the meeting that such Stockholder Nominee shall not be considered.

(b) Maximum Number of Stockholder Nominees.

(i) The Corporation shall not be required to include in the proxy statement for an annual meeting of stockholders more Stockholder Nominees than that number of directors constituting the greater of (A) two (2) or (B) twenty percent (20%) of the total number of directors of the Corporation on the last day on which a Nomination Notice may be submitted pursuant to this Article II, Section 8 (rounded down to the nearest whole number) (the "Maximum Number").

(ii) The Maximum Number for a particular annual meeting shall be reduced by: (A) Stockholder Nominees whose nominations are withdrawn by the Nominating Stockholder or who become unwilling to serve on the Board of Directors; (B) Stockholder Nominees who the Board of Directors itself decides to nominate for election at such annual meeting; and (C) the number of incumbent directors who had been Stockholder Nominees at any of the preceding two (2) annual meetings of stockholders and whose reelection at the upcoming annual meeting of stockholders is being recommended by the Board of Directors. In the event that one (1) or more vacancies for any reason occurs on the Board of Directors after the deadline for submitting a Nomination Notice as set forth in Article II, Section 8(c)(vi) but before the date of the annual meeting of stockholders and the Board of Directors resolves to reduce the size of the Board of Directors in connection therewith, the Maximum Number shall be calculated based on the number of directors in office as so reduced. In no circumstance shall the Maximum Number exceed the number of directors to be elected at the applicable meeting as noticed by the Corporation.

(iii) If the number of Stockholder Nominees pursuant to this Article II, Section 8 for any annual meeting of stockholders exceeds the Maximum Number, then, promptly upon notice from the Corporation, each Nominating Stockholder will select one (1) Stockholder Nominee for inclusion in the proxy statement until the Maximum Number is reached, going in order of the amount (largest to smallest) of shares of the Corporation's common stock that each Nominating Stockholder disclosed as owned in its Nomination Notice, with the process repeated if the Maximum Number is not reached after each Nominating Stockholder has selected one (1) Stockholder Nominee. If, after the deadline for submitting a Nomination Notice as set forth in Article II, Section 8(c)(vi), a Nominating Stockholder or a Stockholder Nominee ceases to satisfy the eligibility requirements in this Article II, Section 8, as determined by the Board of Directors, or the Maximum Number is reached, a Nominating Stockholder withdraws its nomination or has its nomination withdrawn or a Stockholder Nominee becomes unwilling to serve on the Board of Directors or is thereafter not submitted for director election, whether before or after the mailing or other distribution of the definitive proxy statement, then the Corporation: (A) shall not be required to include in its proxy statement or on any ballot or form of proxy the Stockholder Nominee or any successor or replacement Stockholder Nominee proposed by the Nominating Stockholder or by any other Nominating Stockholder and (B) may otherwise communicate to its stockholders, including, without limitation by amending or supplementing its proxy statement or ballot or form of proxy, that the Stockholder Nominee will not be included as a Stockholder Nominee in the proxy statement or on any ballot or form of proxy and will not be voted on at the annual meeting of stockholders.

(c) Eligibility of Nominating Stockholder.

(i) An "Eligible Stockholder" is a person who has either (A) been a record holder of the shares of common stock of the Corporation used to satisfy the eligibility requirements in this Article II, Section 8(c) continuously for the three (3)year period specified in subsection (c)(ii) of this Article II, Section 8(c) below or (B) provides to the Secretary of the Corporation, within the time period referred to in Article II, Section 8(c)(vi), evidence of continuous ownership of such shares for such three (3)year period from one (1) or more securities intermediaries in a form that the Board of Directors determines acceptable.

(ii) An Eligible Stockholder or group of up to twenty (20) Eligible Stockholders may submit a nomination in accordance with this Article II, Section 8(c) only if the person or group (in the aggregate) has continuously owned at least the Minimum Number (as defined below) (as adjusted for any stock splits, reverse stock splits, stock dividends or similar events) of shares of the Corporation's common stock throughout the three (3)year period preceding and including the date of submission of the Nomination Notice and as of the record date for determining stockholders eligible to vote at the annual meeting, and continues to own at least the Minimum Number of shares through the date of the annual meeting of stockholders. The following shall be treated as one (1) Eligible Stockholder if such Eligible Stockholder shall provide together with the Nomination Notice documentation satisfactory to the Board of Directors that demonstrates compliance with the following criteria (each such fund, a "Qualifying Fund"): (A) funds under common management and investment control; (B) funds under common management and funded primarily by the same employer; or (C) a "group of investment companies" (as defined in the Investment Company Act of 1940, as amended); provided that, each fund otherwise meets the requirements set forth in this Article II, Section 8. In the event of a nomination by a Nominating Stockholder that includes more than one (1) Eligible Stockholder, any and all requirements and obligations for a given Eligible Stockholder or, except as the context otherwise makes clear, the Nominating Stockholder that are set forth in this Article II, Section 8(c), including the minimum holding period, shall apply to each member of such group; provided, however, that the Minimum Number shall apply to the aggregate ownership of the group of Eligible Stockholders constituting the Nominating Stockholder. Should any Eligible Stockholder cease to satisfy the eligibility requirements in this Article II, Section 8(c), as determined by the Board of Directors, or withdraw from a group of Eligible Stockholders constituting a Nominating Stockholder at any time prior to the annual meeting of stockholders, the Nominating Stockholder shall be deemed to own only the shares held by the remaining Eligible Stockholders. As used in this Article II, Section 8(c), any reference to a "group" or "group of Eligible Stockholders" refers to any Nominating Stockholder that consists of more than one (1) Eligible Stockholder and to all the Eligible Stockholders that make up such Nominating Stockholder.

(iii) The "Minimum Number" of shares of the Corporation's common stock means three percent (3%) of the number of outstanding shares of common stock of the Corporation as of the most recent date for which such amount is given in any filing by the Corporation with the Securities and Exchange Commission prior to the submission of the Nomination Notice.

(iv) For purposes of this Article II, Section 8(c), an Eligible Stockholder "owns" only those outstanding shares of the Corporation's common stock as to which such Eligible Stockholder possesses both: (A) the full voting and investment rights pertaining to such shares and (B) the full economic interest in (including the opportunity for profit from and the risk of loss on) such shares; provided that, the number of shares calculated in accordance with clauses (A) and (B) shall not include (and to the extent any of the following arrangements have been entered into by affiliates of the Eligible Stockholder, shall be reduced by) any shares: (1) purchased or sold by such Eligible Stockholder or any of its affiliates in any transaction that has not been settled or closed, (2) sold short by such Eligible Stockholder, (3) borrowed by such Eligible Stockholder or any of its affiliates for any purpose or purchased by such Eligible Stockholder or any of its affiliates pursuant to an agreement to resell or subject to any other obligation to resell to another person, or (4) subject to any option, warrant, forward contract, swap, contract of sale, other derivative or similar agreement entered into by such Eligible Stockholder or any of its affiliates, whether any such instrument or agreement is to be settled with shares or with cash based on the notional amount or value of outstanding capital stock of the Corporation, in any such case which instrument or agreement has, or is intended to have, the purpose or effect of: (x) reducing in any manner, to any extent or at any time in the future, such Eligible Stockholder's or any of its affiliates' full right to vote or direct the voting of any such shares, and/or (y) hedging, offsetting, or altering to any degree any gain or loss arising from the full economic ownership of such shares by such Eligible Stockholder or any of its affiliates. An Eligible Stockholder "owns" shares held in the name of a nominee or other intermediary so long as the Eligible Stockholder retains the right to instruct how the shares are voted with respect to the election of directors and possesses the full economic interest in the shares. An Eligible Stockholder's ownership of shares shall be deemed to continue during any period in which the Eligible Stockholder has delegated any voting power by means of a proxy, power of attorney, or other similar instrument or arrangement that is revocable at any time by the Eligible Stockholder. An Eligible Stockholder's ownership of shares shall be deemed to continue during any period in which the Eligible Stockholder has loaned such shares; provided that, the Eligible Stockholder has the power to recall such loaned shares on not more than five (5) business days' notice. The terms "owned," "owning" and other variations of the word "own" shall have correlative meanings. Whether outstanding shares of the Corporation are "owned" for these purposes shall be determined by the Board of Directors. For purposes of this Article II, Section 8(c)(iv), the term "affiliate" or "affiliates" shall have the meaning ascribed thereto under the General Rules and Regulations under the Exchange Act.

(v) No Eligible Stockholder shall be permitted to be in more than one (1) group constituting a Nominating Stockholder, and if any Eligible Stockholder appears as a member of more than one (1) group, such Eligible Stockholder shall be deemed to be a member of only the group that has the largest ownership position as reflected in the Nomination Notice.

(vi) Nomination Notice. To nominate a Stockholder Nominee pursuant to this Article II, Section 8(a), the Nominating Stockholder (including each group member in the case of a Nominating Stockholder consisting of a group of Eligible Stockholders) must have delivered to the Secretary of the Corporation, and the Secretary must have received, all of the following information and documents in a form that the Board of Directors determines acceptable (collectively, the "Nomination Notice"), not less than one hundred twenty (120) days nor more than one hundred fifty (150) days prior to the anniversary of the date that the Corporation mailed its proxy statement for the prior year's annual meeting of stockholders (and in no event shall the adjournment or postponement of an annual meeting, or the public announcement thereof, commence a new time period (or extend any time period) for the giving of the Nomination Notice):

(A) one (1) or more written statements from the record holder of the shares (and from each intermediary through which the shares are or have been held during the requisite three (3) year holding period) verifying that, as of a date within seven (7) calendar days prior to the date of the Nomination Notice, the Nominating Stockholder owns, and has continuously owned for the preceding three (3) years, the Minimum Number of shares, and the Nominating Stockholder's agreement to provide, within five (5) business days after the record date for the annual meeting, written statements from the record holder and intermediaries verifying the Nominating Stockholder's continuous ownership of the Minimum Number of shares through the record date, together with any additional information reasonably requested to verify such person's ownership of the Minimum Number of shares;

(B) an agreement to provide immediate notice if the Nominating Stockholder ceases to own the Minimum Number of shares at any time prior to the date of the annual meeting;

(C) a Schedule 14N (or any successor form) relating to each Stockholder Nominee, completed and filed with the Securities and Exchange Commission by the Nominating Stockholder, as applicable, in accordance with Securities and Exchange Commission rules;

(D) the written consent of each Stockholder Nominee to being named as a nominee in any proxy statement, form of proxy and ballot relating to the next annual meeting as a Stockholder Nominee (and stating that such Stockholder Nominee will not agree to be named in any other person's proxy statement, form of proxy cor ballot with respect to the Corporation) and to serving as a director if elected;

(E) a written notice, in a form deemed satisfactory by the Board of Directors, of the nomination of each Stockholder Nominee that includes the following additional information, agreements, representations and warranties by the Nominating Stockholder: (1) the information that would be required to be set forth in a stockholder's notice of nomination pursuant to Article II, Sections 3 and 4; (2) the details of any relationship that existed within the past three (3) years and that would have been described pursuant to Item 6(e) of Schedule 14N (or any successor item) if it existed on the date of submission of the Schedule 14N; (3) a representation and warranty that the Nominating Stockholder acquired the securities of the Corporation in the ordinary course of business and did not acquire, and is not holding, securities of the Corporation for the purpose or with the effect of influencing or changing control of the Corporation; (4) a representation and warranty that the Nominating Stockholder has not nominated and will not nominate for election to the Board of Directors at the annual meeting any person other than such Nominating Stockholder's Stockholder Nominee(s); (5) a representation and warranty that the Nominating Stockholder has not engaged in and will not engage in a "solicitation" within the meaning of Rule 14a-1(l) under the Exchange Act (without reference to the exception in Section 14a-1(l)(2)(iv)) with respect to the annual meeting, other than with respect to such Nominating Stockholder's Stockholder Nominee(s) or any nominee of the Board of Directors; (6) a representation and warranty that the Nominating Stockholder will not use any proxy card other than the Corporation's proxy card in soliciting stockholders in connection with the election of a Stockholder Nominee at the annual meeting; (7) a representation and warranty that each Stockholder Nominee's candidacy or, if elected, membership on the Board of Directors would not violate applicable state or federal law or the rules of any stock exchange on which the Corporation's securities are traded; (8) a representation and warranty that each Stockholder Nominee: (A) does not have any direct or indirect relationship with the Corporation that would cause the Stockholder Nominee to be deemed not independent, and otherwise qualifies as independent, pursuant to the Corporation's Statement of Corporate Governance Principles (as amended from time to time or any successor policy), the rules of the primary stock exchange on which the Corporation's shares of common stock are traded and any applicable rules of the Securities and Exchange Commission; (B) meets the audit committee and compensation committee independence requirements under the rules of the primary stock exchange on which the Corporation's shares of common stock are traded; is a "non-employee director" for the purposes of Rule 16b-3 under the Exchange Act (or any successor rule); (D) is an "outside director" for the purposes of Section 162(m) of the Internal Revenue Code (or any successor provision); (E) is not and has not been subject to any event specified in Rule 506(d)(1) of Regulation D (or any successor rule) under the Securities Act of 1933 or Item 401(f) of Regulation S-K (or any successor rule) under the Exchange Act, without reference to whether the event is material to an evaluation of the ability or

integrity of such Stockholder Nominee; and (F) meets the director qualifications set forth in these Bylaws and the Statement of Corporate Governance Principles, if any; (9) a representation and warranty that the Nominating Stockholder satisfies the eligibility requirements set forth in Article II, Section 8(c); (10) a representation and warranty that the Nominating Stockholder intends to continue to satisfy the eligibility requirements described in Article II, Section 8(c) through the date of the annual meeting; (11) details of any position of a Stockholder Nominee as an officer or director of any competitor (that is, any entity that produces products or provides services that compete with or are alternatives to the principal products produced or services provided by the Corporation or its affiliates) of the Corporation, within the three (3) years preceding the submission of the Nomination Notice; (12) if desired, a Supporting Statement; (13) in the case of a nomination by a Nominating Stockholder comprised of a group, the designation by all Eligible Stockholders in such group of one (1) Eligible Stockholder who is authorized to act on behalf of the Nominating Stockholder with respect to matters relating to the nomination, including withdrawal of the nomination; and (14) will provide facts, statements and other information in all communications with the Corporation and its stockholders that are and will be true and correct in all material respects and do not and will not omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, and will otherwise comply with all applicable laws, rules and regulations in connection with any actions taken pursuant to this Article II, Section 8;

(F) an executed agreement, in a form deemed satisfactory by the Board of Directors, pursuant to which the Nominating Stockholder (including, in the case of a group, each Eligible Stockholder in that group) agrees: (1) to comply with all applicable laws, rules, regulations and listing standards in connection with the nomination, solicitation and election and to promptly provide the Corporation with such other information as the Corporation may reasonably request; (2) to file any written solicitation or other communication with the Corporation's stockholders relating to one (1) or more of the Corporation's directors or nominees for director or any Stockholder Nominee with the Securities and Exchange Commission, regardless of whether any such filing is required under any rule or regulation or whether any exemption from filing is available for such materials under any rule or regulation; (3) to assume all liability stemming from an action, suit or proceeding concerning any actual or alleged legal or regulatory violation arising out of or relating to (x) any communication by the Nominating Stockholder or any of its Stockholder Nominees with the Corporation, its stockholders or any other person in connection with the nomination or election of directors, including, without limitation, the Nomination Notice (and any other information provided to the Corporation in connection therewith), (y) the Nominating Stockholder's efforts to elect any of its Stockholder Nominees

or (z) a failure or alleged failure of the Nominating Stockholder or any of its Stockholder Nominees to comply with, or any breach or alleged breach of, its or their obligations, agreements or representations under these Bylaws; (4) to indemnify and hold harmless (jointly with all other Eligible Stockholders, in the case of a group of Eligible Stockholders) the Corporation and its affiliates and each of its and their directors, officers and employees individually against any liability, loss, damages, expenses or other costs (including attorneys' fees) incurred in connection with any threatened or pending action, suit or proceeding, whether legal, administrative or investigative, against the Corporation or any of its affiliates or its or their directors, officers or employees arising out of or relating to (x) any communication by the Nominating Stockholder or any of its Stockholder Nominees with the Corporation, its stockholders or any other person in connection with the nomination or election of directors, including, without limitation, the Nomination Notice (and any other information provided to the Corporation in connection therewith), (y) the Nominating Stockholder's efforts to elect any of its Stockholder Nominees or (z) a failure or alleged failure of the Nominating Stockholder or any of its Stockholder Nominees to comply with, or any breach or alleged breach of, its or their obligations, agreements or representations under these Bylaws; (5) in the event that any information included in the Nomination Notice or any other communication by the Nominating Stockholder (including with respect to any Eligible Stockholder included in a group) with the Corporation, its stockholders or any other person in connection with the nomination or election ceases to be true and accurate in all material respects (or omits a material fact necessary to make the statements made not misleading), to promptly (and in any event within forty-eight (48) hours of discovering such misstatement or omission) notify the Corporation and any other recipient of such communication of the misstatement or omission in such previously provided information and of the information that is required to correct the misstatement or omission; it being understood that providing any such notification will not be deemed to cure any defect or limit the remedies (including, without limitation, under these Bylaws) available to the Corporation relating to any such defect; and (6) in the event that the Nominating Stockholder (including any Eligible Stockholder in a group) has failed to continue to satisfy the eligibility requirements described in Article II, Section 8(c), to promptly notify the Corporation; and

(G) an executed agreement, in a form deemed satisfactory by the Board of Directors, by each Stockholder Nominee: (1) to provide to the Corporation such other information and certifications, including completion of the Corporation's director nominee questionnaire, as the Board of Directors may reasonably request; (2) at the reasonable request of the Board of Directors or any committee, to discuss matters relating to the nomination of such Stockholder Nominee to the Board of Directors or any committee, including the information provided by such Stockholder

Nominee to the Corporation in connection with his or her nomination and such Stockholder Nominee's eligibility to serve as a member of the Board of Directors; (3) that such Stockholder Nominee has read and agrees, if elected, to serve as a member of the Board of Directors, to adhere to the Corporation's Statement of Corporate Governance Principles and any other Corporation policies and guidelines applicable to directors; and (4) that such Stockholder Nominee is not and will not become a party to (A) any compensatory, payment or other financial agreement, arrangement or understanding with any person or entity in connection with his or her nomination, candidacy, service or action as a director of the Corporation that has not been fully disclosed to the Corporation prior to or concurrently with the Nominating Stockholder's submission of the Nomination Notice, (B) any agreement, arrangement or understanding with any person or entity as to how such Stockholder Nominee would vote or act on any issue or question as a director (a "Voting Commitment") that has not been fully disclosed to the Corporation prior to or concurrently with the Nominating Stockholder's submission of the Nomination Notice or (C) any Voting Commitment that could limit or interfere with such Stockholder Nominee's ability to comply, if elected as a director of the Corporation, with his or her fiduciary duties under applicable law.

The information and documents required by this Article II, Section 8(c)(vi) to be provided by the Nominating Stockholder shall be: (i) provided with respect to and executed by each Eligible Stockholder in the group in the case of a Nominating Stockholder comprised of a group of Eligible Stockholders; and (ii) provided with respect to the persons specified in Instructions 1 and 2 to Items 6(c) and (d) of Schedule 14N (or any successor item) (x) in the case of a Nominating Stockholder that is an entity and (y) in the case of a Nominating Stockholder that is a group that includes one (1) or more Eligible Stockholders that are entities. The Nomination Notice shall be deemed submitted on the date on which all of the information and documents referred to in this Article II, Section 8(c)(vi) (other than such information and documents contemplated to be provided after the date the Nomination Notice is provided) have been delivered to and received by the Secretary of the Corporation. In order to be considered timely, any information required by this Article II, Section 8 to be provided to the Corporation must be supplemented (by delivery to the Secretary of the Corporation) (1) no later than ten (10) days following the record date for the applicable annual meeting, to disclose the foregoing information as of such record date, and (2) no later than the fifth (5th) day before the annual meeting, to disclose the foregoing information as of the date that is no earlier than ten (10) days prior to such annual meeting.

(d) Exceptions.

(i) Notwithstanding anything to the contrary contained in this Article II, Section 8, the Corporation may omit from its proxy statement any Stockholder Nominee and any information concerning such Stockholder Nominee (including a Nominating Stockholder's Supporting Statement) and no vote on such Stockholder Nominee will occur (notwithstanding that proxies in respect of such vote may have been received by the Corporation), and the Nominating Stockholder may not, after the last day

on which a Nomination Notice would be timely, cure in any way any defect preventing the nomination of such Stockholder Nominee, if: (1) the Corporation receives a notice pursuant to the advance notice requirements set forth in Article II, Section 3 that a stockholder intends to nominate a candidate for director at the annual meeting, whether or not such notice is subsequently withdrawn or made the subject of a settlement with the Corporation; (2) the Nominating Stockholder (or, in the case of a Nominating Stockholder consisting of a group of Eligible Stockholders, the Eligible Stockholder that is authorized to act on behalf of the Nominating Stockholder), or any qualified representative thereof, does not appear at the annual meeting to present the nomination submitted pursuant to this Article II, Section 8, the Nominating Stockholder withdraws its nomination or the chairman of the annual meeting declares that such nomination was not made in accordance with the procedures prescribed by this Article II, Section 8 and shall therefore be disregarded; (3) the Board of Directors determines that such Stockholder Nominee's nomination or election to the Board of Directors would result in the Corporation violating or failing to be in compliance with these Bylaws or the Certificate of Incorporation or any applicable law, rule or regulation to which the Corporation is subject, including any rules or regulations of any stock exchange on which the Corporation's securities are traded; (4) such Stockholder Nominee was nominated for election to the Board of Directors pursuant to this Article II, Section 8 at one (1) of the Corporation's two (2) preceding annual meetings of stockholders and either withdrew from or became ineligible or unavailable for election at such annual meeting or received a vote of less than twenty-five percent (25%) of the shares of common stock entitled to vote for such Stockholder Nominee; (5) such Stockholder Nominee has been, within the past three (3) years, an officer or director of a competitor, as defined for purposes of Section 8 of the Clayton Antitrust Act of 1914, as amended; (6) the Corporation is notified, or the Board of Directors determines, that the Nominating Stockholder or such Stockholder Nominee has failed to continue to satisfy the eligibility requirements, any of the representations and warranties made in the Nomination Notice ceases to be true and accurate in all material respects (or omits a material fact necessary to make the statements made not misleading), such Stockholder Nominee becomes unwilling or unable to serve on the Board of Directors or any material violation or breach occurs of any of the obligations, agreements, representations or warranties of the Nominating Stockholder or such Stockholder Nominee under this Article II, Section 8; (7) such Stockholder Nominee is a named subject of a pending criminal proceeding (excluding traffic violations and other minor offenses) or has been convicted in such a criminal proceeding within the past ten (10) years; (8) such Stockholder Nominee is subject to any order of the type specified in Rule 506(d) of Regulation D promulgated under the Securities Act of 1933; or (9) such Stockholder Nominee is not independent under the listing standards of the principal U.S. exchange upon which the common stock of the Corporation is listed, any applicable rules of the Securities and Exchange Commission and any publicly disclosed standards used by the Board of Directors in determining and disclosing independence of the Corporation's directors, in each case as determined by the Board of Directors.

(ii) Notwithstanding anything to the contrary contained in this Article II, Section 8, the Corporation may omit from its proxy statement, or may supplement or correct, any information, including all or any portion of the Supporting

Statement or any other statement in support of a Stockholder Nominee included in the Nomination Notice, if the Board of Directors determines that: (1) such information is not true in all material respects or omits a material statement necessary to make the statements made not misleading; (2) such information directly or indirectly impugns the character, integrity or personal reputation of, or directly or indirectly makes charges concerning improper, illegal or immoral conduct or associations, without factual foundation, with respect to, any individual, corporation, partnership, association or other entity, organization or governmental authority; (3) the inclusion of such information in the proxy statement would otherwise violate the Securities and Exchange Commission proxy rules or any other applicable law, rule or regulation; or (4) the inclusion of such information in the proxy statement would impose a material risk of liability upon the Corporation.

The Corporation may solicit against, and include in the proxy statement its own statement relating to, any Stockholder Nominee.

ARTICLE 3
DIRECTORS

Section 1. Duties and Powers. The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors. In addition to the powers and authorities by these Bylaws expressly conferred upon them, the Board of Directors may exercise all powers of the Corporation and perform all lawful acts and things as are not by statute or by the Certificate of Incorporation or by these Bylaws required to be exercised or performed by the stockholders.

Section 2. Number and Tenure. Subject to the rights of the holders of any class or series of Preferred Stock, the number of directors which shall constitute the Board of Directors shall be fixed from time to time exclusively pursuant to a resolution adopted by a majority of the Whole Board. No decrease in the number of authorized directors constituting the Whole Board shall shorten the term of any incumbent director.

Except as otherwise provided in the Certificate of Incorporation, subject to the rights of the holders of any series of Preferred Stock provided for or fixed pursuant to the Certificate of Incorporation (the "Preferred Stock Directors"), the Board of Directors shall be divided, with respect to the time for which they severally hold office, into three (3) classes, designated Class I, Class II and Class III, as nearly equal in number as reasonably possible. The first (1st) term of office for the Class I directors shall expire at the 2023 annual meeting of stockholders. The first (1st) term of office for the Class II directors shall expire at the 2024 annual meeting of stockholders. The first (1st) term of office for the Class III directors shall expire at the 2025 annual meeting of stockholders. At the 2023 annual meeting of stockholders, the Class I directors shall be elected for a term of office to expire at the 2026 annual meeting of stockholders. At the 2024 annual meeting of stockholders, the Class II directors shall be elected for a term of office to expire at the 2026 annual meeting of stockholders. At the 2025 annual meeting of stockholders, the Class III directors shall be elected for a term of office to expire at the 2026 annual meeting of stockholders. Commencing at the 2026 annual meeting of stockholders and at all subsequent annual meetings of stockholders, the Board of Directors will

no longer be classified under Section 141(d) of the DGCL, and all directors shall be elected for a term of office to expire at the next succeeding annual meeting of stockholders. Prior to the 2026 annual meeting of stockholders, in case of any increase or decrease, from time to time, in the number of directors (other than Preferred Stock Directors), the number of directors in each class shall be apportioned as nearly equal in number as reasonably possible.

Section 3. Regular Meetings. A regular meeting of the Board of Directors shall be held without other notice than this Bylaw immediately after, and at the same place as, the annual meeting of stockholders, or such other date, time and place as the Board of Directors may determine. The Board of Directors may, by resolution, provide the date, time and place, if any, for the holding of additional regular meetings without other notice than such resolution.

Section 4. Special Meetings. Special meetings of the Board of Directors shall be called at the request of the Chairman of the Board of Directors, the Chief Executive Officer or a majority of the Board of Directors then in office. The person or persons authorized to call special meetings of the Board of Directors may fix the place, if any, date and time of the meetings.

Section 5. Telephone Meetings. Any or all directors may participate in a meeting of the Board of Directors or a committee thereof by means of conference telephone or videoconference or any means of communication by which all persons participating in the meeting are able to hear each other, and such participation in a meeting shall constitute presence in person at such meeting.

Section 6. Notice of Meetings. Notice of any special meeting of directors shall be given to each director at such person's business or residence in writing by hand delivery, first-class or overnight mail or courier service, email or facsimile transmission, or orally by telephone. If mailed by first-class mail, such notice shall be deemed adequately delivered when deposited in the United States mails so addressed, with postage thereon prepaid, at least five (5) days before such meeting. If by overnight mail or courier service, such notice shall be deemed adequately delivered when the notice is delivered to the overnight mail or courier service company at least twenty-four (24) hours before such meeting. If by email, facsimile transmission, telephone or by hand, such notice shall be deemed adequately delivered when the notice is transmitted at least twelve (12) hours before such meeting. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Directors need be specified in the notice of such meeting. A meeting may be held at any time without notice if all the directors are present or if those not present waive notice of the meeting in accordance with Article VIII, Section 2 of these Bylaws.

Section 7. Quorum. Subject to Article III, Section 8 of these Bylaws, a whole number of directors equal to at least a majority of the Whole Board shall constitute a quorum for the transaction of business, but if at any meeting of the Board of Directors there shall be less than a quorum present, a majority of the directors present may adjourn the meeting from time to time without further notice. The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors. The directors present at a duly organized meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough directors to leave less than a quorum.

Section 8. Vacancies. Subject to applicable law and the rights of the holders of any series of Preferred Stock with respect to such series of Preferred Stock, and unless the Board of Directors otherwise determines, vacancies resulting from death, resignation, retirement, disqualification, removal from office or other cause, and newly created directorships resulting from any increase in the authorized number of directors, may be filled only by the affirmative vote of a majority of the remaining directors, though less than a quorum of the Board of Directors, or by a sole remaining director, and directors so chosen shall hold office until the next election of the class, if any, for which such director shall have been chosen and until his or her successor shall have been duly elected and qualified or until any such director's earlier death, resignation, removal, retirement or disqualification. Notwithstanding the foregoing, from and after the 2026 annual meeting of stockholders, any director so chosen shall hold office until the next election of directors and until his or her successor shall have been duly elected and qualified or until any such director's earlier death, resignation, removal, retirement or disqualification. No decrease in the number of authorized directors constituting the Whole Board shall shorten the term of any incumbent director.

Section 9. Chairman of the Board of Directors. The Chairman of the Board of Directors shall be chosen from among the directors and may be the Chief Executive Officer. The Chairman shall preside over all meetings of the Board of Directors. In the absence of the Chairman of the Board of Directors, a Vice Chairman of the Board of Directors, the Chief Executive Officer, the President, or another director, in the order designated by the Chairman of the Board of Directors, shall preside at meetings of the Board of Directors.

Section 10. Committees. The Board of Directors may designate any such committee as the Board of Directors considers appropriate, which shall consist of one (1) or more directors of the Corporation. The Board of Directors may designate one (1) or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. Any such committee may to the extent permitted by law exercise such powers and shall have such responsibilities as shall be specified in the designating resolution. Each committee shall keep written minutes of its proceedings and shall report such proceedings to the Board of Directors as appropriate.

A majority of any committee may determine its action and fix the time and place of its meetings, unless the Board of Directors shall otherwise provide. Notice of such meetings shall be given to each member of the committee in the manner provided for in Article III, Section 6 of these Bylaws. The Board of Directors shall have power at any time to fill vacancies in, to change the membership of, or to dissolve, any such committee. Nothing herein shall be deemed to prevent the Board of Directors from appointing one (1) or more committees consisting in whole or in part of persons who are not directors of the Corporation; provided, however, that no such committee shall have or may exercise any authority of the Board of Directors.

Section 11. Removal. Subject to the rights of the holders of any series of Preferred Stock, any director(s) of the Corporation may be removed from office at any time by the affirmative vote of the holders of at least a majority of the Voting Stock (a) until the 2026 annual meeting of stockholders or such other time as the Board of Directors is no longer classified under Section 141(d) of the DGCL, only for cause by the affirmative vote of the holders of a majority of the Voting Stock and (b) from and including the 2026 annual meeting of stockholders or such other time as the Board of Directors is no longer classified under Section 141(d) of the DGCL, with or without cause, by the affirmative vote of the holders of a majority of the Voting Stock.

Section 12. Action Without a Meeting. The Board of Directors or a committee thereof may take any action required or permitted to be taken at any meeting of the Board of Directors or committee, as the case may be, without a meeting if, prior or subsequent to such action, all members of the Board of Directors or committee, as the case may be, consent thereto 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. 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.

Section 13. Compensation of Directors. The Board of Directors may, by the affirmative vote of a majority of the directors then in office, fix fees or compensation of the directors for services to the Corporation, including attendance at meetings of the Board of Directors or committees thereof. Nothing herein contained shall be construed to preclude any director from serving the Corporation in any other capacity and receiving compensation therefor.

ARTICLE 4
OFFICERS

Section 1. Elected Officers. The elected officers of the Corporation shall be a Chief Executive Officer, a President, a Treasurer, a Secretary and such other officers or assistant officers as the Board of Directors from time to time may deem proper. Any number of offices may be held by the same person. All officers and assistant officers elected by the Board of Directors shall each have such powers and duties as generally pertain to their respective offices, subject to the specific provisions of this Article IV. Such officers and assistant officers shall also have such powers and duties as from time to time may be conferred by the Board of Directors or by any committee thereof. The Board of Directors or any committee thereof may from time to time elect such other officers and assistant officers (including one (1) or more Assistant Vice Presidents, Assistant Secretaries, and Assistant Treasurers) and such agents, as may be necessary or desirable for the conduct of the business of the Corporation. Assistant officers and agents also may be appointed by the Chief Executive Officer. Such other officers, assistant officers and agents shall have such duties and shall hold their offices for such terms as shall be provided in these Bylaws or as may be prescribed by the Board of Directors or such committee or by the Chief Executive Officer, as the case may be.

Section 2. Election and Term of Office. The elected officers of the Corporation shall be elected by the Board of Directors. Each officer shall hold office until such officer's successor shall have been duly elected and shall have qualified or until such officer's earlier death, resignation or removal.

Section 3. Chief Executive Officer. The Chief Executive Officer shall be responsible for the general management and supervision over and responsibility for the business and affairs of the Corporation and shall perform all duties incident to the office which may be required by applicable law and all such other duties as are properly required of the Chief Executive Officer by the Board of Directors. The Chief Executive Officer of the Corporation may also serve as President, if so elected by the Board of Directors.

Section 4. President. If the Board of Directors elects a President who is not the Chief Executive Officer, the President shall act in a general executive capacity and shall assist the Chief Executive Officer in the administration and operation of the Corporation's business and general supervision of its policies and affairs.

Section 5. Vice Presidents. Each Vice President, including any Vice President designated as Executive, Senior, or otherwise, shall have such powers and shall perform such duties as shall be assigned to such Vice President by the Board of Directors, the Chief Executive Officer or the President.

Section 6. Treasurer. The Treasurer shall exercise general supervision over the receipt, custody and disbursement of corporate funds. The Treasurer shall, in general, perform all the duties incident to the office of Treasurer and shall have such further powers and duties as shall be prescribed from time to time by the Board of Directors, the Chief Executive Officer or the President.

Section 7. Secretary. The Secretary shall keep or cause to be kept, in one (1) or more books provided for that purpose, the minutes of all meetings of the Board of Directors, the committees of the Board of Directors and the stockholders. The Secretary shall see that all notices are duly given in accordance with the provisions of these Bylaws and as required by applicable law. The Secretary shall see that the books, reports, statements, certificates and other documents and records required by applicable law to be kept and filed are properly kept and filed. The Secretary shall, in general, perform all the duties incident to the office of Secretary and such other duties as from time to time may be assigned to such Secretary by the Board of Directors, the Chief Executive Officer or the President.

Section 8. Compensation of Assistant Officers and Agents. Unless otherwise determined by the Board of Directors, the Chief Executive Officer shall have the authority to fix and determine, and change from time to time, the compensation of all assistant officers and agents of the Corporation elected or appointed by the Board of Directors or by the Chief Executive Officer, including, but not restricted to, monthly or other periodic compensation and incentive or other additional compensation.

Section 9. Removal. Any officer elected, or agent appointed, by the Board of Directors may be removed from office with or without cause by the affirmative vote of a majority of the Whole Board. Any assistant officer or agent appointed by the Chief Executive Officer may be removed from office by the Chief Executive Officer with or without cause. No elected officer or assistant officer shall have any contractual rights against the Corporation for compensation by virtue of such election beyond the date of the election of his or her successor, his or her death, or his or her resignation or removal from office, whichever event shall first occur, except as otherwise provided in an employment contract or under an employee deferred compensation plan.

Section 10. Vacancies. A newly created elected office and a vacancy in any elected office because of death, resignation, or removal may be filled by the Board of Directors. Any vacancy in an office appointed by the Chief Executive Officer or the President because of death, resignation, or removal may be filled by the Chief Executive Officer or the President.

ARTICLE 5
STOCK CERTIFICATES AND TRANSFERS

Section 1. Stock; Transfers. Unless otherwise determined by the Board of Directors, the interest of each stockholder of the Corporation will be uncertificated.

The shares of the stock of the Corporation shall be transferred on the books of the Corporation, in the case of certificated shares of stock, if any, by the holder thereof in person or by such person's attorney duly authorized in writing, upon surrender for cancellation of certificates for at least the same number of shares, with an assignment and power of transfer endorsed thereon or attached thereto, duly executed, with such proof of the authenticity of the signature as the Corporation or its agents may reasonably require; and, in the case of uncertificated shares of stock, upon receipt of proper transfer instructions from the registered holder of the shares or by such person's attorney duly authorized in writing, and upon compliance with appropriate procedures for transferring shares in uncertificated form. No transfer of stock shall be valid as against the Corporation for any purpose until it shall have been entered in the stock records of the Corporation by an entry showing from and to whom transferred.

The certificates of stock, if any, shall be signed, countersigned and registered in such manner as the Board of Directors may by resolution prescribe, which resolution may permit all or any of the signatures on such certificates to be in facsimile. In case any officer, transfer agent or registrar who has signed or whose facsimile signature has been placed upon a certificate has ceased to be such officer, transfer agent or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if such person were such officer, transfer agent or registrar at the date of issue.

Notwithstanding anything to the contrary in these Bylaws, at all times that the Corporation's stock is listed on a stock exchange, the shares of the stock of the Corporation shall comply with all direct registration system eligibility requirements established by such exchange, including any requirement that shares of the Corporation's stock be eligible for issue in book-entry form. All issuances and transfers of shares of the Corporation's stock shall be entered on the books of the Corporation with all information necessary to comply with such direct registration system eligibility requirements, including the name and address of the person to whom the shares of stock are issued, the number of shares of stock issued and the date of issue. The Board of Directors shall have the power and authority to make such rules and regulations as it may deem necessary or proper concerning the issue, transfer and registration of shares of stock of the Corporation in both the certificated (if any) and uncertificated form.

Section 2. Lost, Stolen or Destroyed Certificates. As applicable, no certificate for shares of stock in the Corporation shall be issued in place of any certificate alleged to have been lost, destroyed or stolen, except on production of such evidence of such loss, destruction or theft

and on delivery to the Corporation of a bond of indemnity in such amount, upon such terms and secured by such surety, as the Board of Directors or any financial officer may in its or such person's discretion require.

Section 3. Record Owners. The Corporation shall be entitled to recognize the exclusive right of a person registered on its books as the owner of shares to receive dividends, and to vote as such owner, and to hold liable for calls and assessments a person registered on its books as the owner of shares, and shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise required by applicable law.

Section 4. Transfer and Registry Agents. The Corporation may from time to time maintain one (1) or more transfer offices or agencies and registry offices or agencies at such place or places as may be determined from time to time by the Board of Directors or by the Chief Executive Officer or the President.

ARTICLE 6
CONTRACTS, PROXIES, ETC.

Section 1. Contracts. Except as otherwise required by applicable law, the Certificate of Incorporation or these Bylaws, any contracts or other instruments may be executed and delivered in the name and on behalf of the Corporation by such officer or officers of the Corporation as the Board of Directors may from time to time direct. Such authority may be general or confined to specific instances as the Board of Directors may determine. The Chairman of the Board of Directors, any Vice Chairman of the Board of Directors, the Chief Executive Officer, the President, any Vice President, the Secretary, the Treasurer and any other officer of the Corporation elected by the Board of Directors may sign, acknowledge, verify, make, execute and/or deliver on behalf of the Corporation any agreement, application, bond, certificate, consent, guarantee, mortgage, power of attorney, receipt, release, waiver, contract, deed, lease and any other instrument, or any assignment or endorsement thereof. Subject to any restrictions imposed by the Board of Directors or the Chairman of the Board of Directors, the Chief Executive Officer, the President, any Vice President, the Secretary, the Treasurer or any other officer of the Corporation elected by the Board of Directors may delegate contractual powers to others under his or her jurisdiction, it being understood, however, that any such delegation of power shall not relieve such officer of responsibility with respect to the exercise of such delegated power.

Section 2. Proxies. Unless otherwise provided by resolution adopted by the Board of Directors, the Chairman of the Board of Directors, the Chief Executive Officer, the President or any officer of the Corporation elected by the Board of Directors may from time to time appoint an attorney or attorneys or agent or agents of the Corporation, in the name and on behalf of the Corporation, to cast the votes which the Corporation may be entitled to cast as the holder of stock or other securities in any other entity, any of whose stock or other securities may be held by the Corporation, at meetings of the holders of the stock or other securities of such other entity, or to consent in writing, in the name of the Corporation as such holder, to any action by such other entity, and may instruct the person or persons so appointed as to the manner of casting such votes or giving such consent, and may execute or cause to be executed in the name and on behalf of the Corporation and under its corporate seal or otherwise, all such written proxies or other instruments as he or she may deem necessary or proper in the premises.

ARTICLE 7
DIVIDENDS

Dividends may be declared and paid at such times and in such amounts as the Board of Directors may in its absolute discretion determine and designate, subject to the restrictions and limitations imposed by law and the Certificate of Incorporation.

ARTICLE 8
MISCELLANEOUS PROVISIONS

Section 1. Seal. The corporate seal, if the Corporation shall have a corporate seal, shall have inscribed thereon the words "Corporate Seal, Delaware," the name of the Corporation and the year of its organization. The seal may be used by causing it or a facsimile thereof to be impressed or affixed or in any other manner reproduced.

Section 2. Waiver of Notice. Whenever any notice is required to be given to any stockholder or director of the Corporation under the provisions of the DGCL, the Certificate of Incorporation or these Bylaws, a waiver thereof in writing, signed by the person or persons entitled to such notice, or a waiver by electronic transmission by the person entitled to notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice. Neither the business to be transacted at, nor the purpose of, any annual or special meeting of the stockholders or the Board of Directors or committee thereof need be specified in any waiver of notice of such meeting. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened.

Section 3. Resignations. Any director or any officer, whether elected or appointed, may resign at any time by giving written notice of such resignation to the Chairman of the Board of Directors, the Chief Executive Officer, or the Secretary, and such resignation shall be deemed to be effective as of the close of business on the date said notice is received by the Chairman of the Board of Directors, the Chief Executive Officer, or the Secretary, or at such later time as is specified therein. Except to the extent specified in such notice, no formal action shall be required of the Board of Directors or the stockholders to make any such resignation effective.

ARTICLE 9
FISCAL YEAR

The fiscal year of the Corporation shall begin on the first (1st) day of October in each year and end on the thirtieth (30th) day of September next succeeding; provided that, the Board of Directors shall have the power, from time to time, to fix a different fiscal year of the Corporation by a duly adopted resolution.

ARTICLE 10
INDEMNIFICATION

Section 1. Indemnification. Each person who was or is a party to or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Corporation) (hereinafter a "proceeding"), by reason of the fact that he or she is or was a director or an officer of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust or other enterprise (each such director or officer, hereinafter, an "indemnitee"), shall be (and shall be deemed to have a contractual right to be) indemnified and held harmless by the Corporation (and any successor of the Corporation by merger or otherwise) to the fullest extent authorized or permitted by the DGCL as the same exists or may hereafter be amended or modified from time to time (but, in the case of any such amendment or modification, only to the extent that such amendment or modification permits the Corporation to provide greater indemnification rights than the DGCL permitted the Corporation to provide prior to such amendment or modification) against all expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection therewith 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 Corporation, and, with respect to any criminal proceeding had no reasonable cause to believe such person's conduct was unlawful.

Section 2. Advancement of Expenses. To the fullest extent permitted by the DGCL as the same exists or may hereafter be amended or modified from time to time (but, in the case of any such amendment or modification, only to the extent that such amendment or modification permits the Corporation to provide greater rights to advancement of expenses than said law permitted the Corporation to provide prior to such amendment or modification), each indemnitee shall have (and shall be deemed to have a contractual right to have) the right, without the need for any action by the Board of Directors, to be paid by the Corporation (and any successor of the Corporation by merger or otherwise) the expenses incurred by such indemnitee in connection with a proceeding in advance of the final disposition of such proceeding; such advances to be paid by the Corporation within twenty (20) days after the receipt by the Corporation of a statement or statements from the claimant requesting such advance or advances from time to time; provided, that, if the DGCL requires, the payment of such expenses incurred by a director or officer in his or her capacity as a director or officer (and not, except to the extent specifically required by applicable law, in any other capacity in which service was or is rendered by such person while a director or officer, including, without limitation, service to an employee benefit plan) shall be made only upon delivery to the Corporation of an undertaking (hereinafter, the "Undertaking") by or on behalf of such director or officer, to repay all amounts so advanced if it shall ultimately be determined by final judicial decision from which there is no further right of appeal (a "final disposition") that such director or officer is not entitled to be indemnified for such expenses under this Bylaw or otherwise.

Section 3. Determination of Indemnification. Any indemnification under this Article X (unless ordered by a court) shall be made by the Corporation only as authorized in the specific case upon a determination that indemnification of the indemnitee is proper in the circumstances, because such person has met the applicable standard of conduct set forth in the DGCL. With respect to an indemnitee who is a director or officer of the Corporation at the time of such determination, such determination shall be made (i) by a majority vote of the directors who are not parties to such proceeding, even though less than a quorum, (ii) by a committee of such

directors designated by majority vote of such directors, even though less than a quorum, (iii) if there are no such directors, or if such directors so direct, by independent legal counsel in a written opinion of such independent legal counsel, or (iv) by the stockholders.

Section 4. Non-Exclusivity of Rights. The rights conferred on any person in this Article X shall not be exclusive of any other right that such person may have or hereafter acquire under any statute, provision of the Certificate of Incorporation, Bylaws, agreement, vote or consent of stockholders or directors. Additionally, nothing in this Article X shall limit the ability of the Corporation, in its discretion, to indemnify or advance expenses to persons whom the Corporation is not obligated to indemnify or advance expenses pursuant to this Article X. The Board of Directors shall have the power to delegate to such officer or other person as the Board of Directors shall specify the determination of whether indemnification shall be given to any person pursuant to this paragraph.

Section 5. Indemnification Agreements. The Board of Directors is authorized to cause the Corporation to enter into indemnification contracts with any director, officer, employee or agent of the Corporation, or any person serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, including employee benefit plans, providing indemnification rights to such person. Such rights may be greater than those provided in this Article X.

Section 6. Continuation of Indemnification. The rights to indemnification and to advancement of expenses provided by, or granted pursuant to, this Article X shall continue notwithstanding that the person has ceased to be an indemnitee and shall inure to the benefit of his or her estate, heirs, executors and administrators; provided, however, that the Corporation shall indemnify any such person seeking indemnity in connection with a proceeding (or part thereof) initiated by such person only if such proceeding (or part thereof) was authorized by the Board of Directors.

Section 7. Effect of Amendment or Repeal. The provisions of this Article X shall constitute a contract between the Corporation, on the one hand, and, on the other hand, each individual who serves or has served as an indemnitee (whether before or after the adoption of these Bylaws), in consideration of such person's performance of such services, and pursuant to this Article X, the Corporation intends to be legally bound to each such current or former indemnitee. With respect to current and former indemnitees, the rights conferred under this Article X are present contractual rights and such rights are fully vested, and shall be deemed to have vested fully, immediately upon adoption of these Bylaws. With respect to any indemnitee who commence service following adoption of these Bylaws, the rights conferred under this Article X shall be present contractual rights, and such rights shall fully vest, and be deemed to have vested fully, immediately upon such indemnitee's service in the capacity which is subject to the benefits of this Article X. No elimination of or amendment to this Article X shall deprive any person of any rights hereunder arising out of alleged or actual acts or omissions occurring prior to such elimination or amendment.

Section 8. Notice. Any notice, request or other communication required or permitted to be given to the Corporation under this Article X shall be in writing and either delivered in person or sent by telecopy, overnight mail or courier service, or certified or registered mail, postage prepaid, return receipt requested, to the Secretary of the Corporation and shall be effective only upon receipt by the Secretary.

Section 9. Severability. If any provision or provisions of this Bylaw shall be held to be invalid, illegal or unenforceable for any reason whatsoever: (1) the validity, legality and enforceability of the remaining provisions of this Bylaw (including, without limitation, each portion of any paragraph of this Bylaw containing any such provision held to be invalid, illegal or unenforceable, that is not itself held to be invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby; and (2) to the fullest extent possible, the provisions of this Bylaw (including, without limitation, each such portion of any paragraph of this Bylaw containing any such provision held to be invalid, illegal or unenforceable) shall be construed so as to give effect to the intent manifested by the provision held invalid, illegal or unenforceable.

ARTICLE 11
AMENDMENTS

Section 1. By the Stockholders. Subject to the provisions of the Certificate of Incorporation, these Bylaws may be amended, altered, changed or repealed, or new Bylaws adopted, at any special meeting of the stockholders of the Corporation if duly called for that purpose (provided that, in the notice of such special meeting, notice of such purpose shall be given), or at any annual meeting, by the affirmative vote of the holders of a majority of the Voting Stock.

Section 2. By the Board of Directors. Subject to the laws of the State of Delaware, the Certificate of Incorporation and these Bylaws, these Bylaws may also be amended, altered, changed or repealed, or new Bylaws adopted, by the Board of Directors.

Exhibit 4.1

EXECUTION VERSION

EMBECTA CORP.,
as Issuer,

the Guarantors party hereto from time to time,

AND

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION,
as Trustee and as Notes Collateral Agent

6.750% Senior Secured Notes due 2030

INDENTURE

Dated as of March 31, 2022

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INDENTURE dated as of March 31, 2022, by and between Embecta Corp., a Delaware corporation, the Guarantors (as defined below) party hereto from time to time, and U.S. Bank Trust Company, National Association, as Trustee and as Notes Collateral Agent.

W I T N E S S E T H

WHEREAS, the Issuer has duly authorized the execution and delivery of this Indenture to provide for the issuance of (i) its 6.750% Senior Secured Notes due 2030 issued on the date hereof (the "Initial Notes") and (ii) any additional Notes ("Additional Notes" and, together with the Initial Notes, the "Notes") that may be issued after the Issue Date;

WHEREAS, all things necessary (i) to make the Notes, when executed and duly issued by the Issuer and authenticated and delivered hereunder, the valid obligations of the Issuer, and (ii) to make this Indenture a valid agreement of the Issuer have been done;

WHEREAS, on the date hereof, (i) the Issuer has issued the Initial Notes to BD (through the facilities of DTC to the nominee of DTC for the account of BD, with one or more global notes representing the Initial Notes), pursuant to the Transaction Documents and the Intercompany Agreement, and immediately thereafter, BD became the sole beneficial holder of the Initial Notes, and (ii) BD, as the parent of the Issuer as of the Issue Date, has duly authorized, executed and delivered to the Trustee the parent guaranty agreement, dated as of the Issue Date (as amended, restated, amended and restated, supplemented or otherwise modified or replaced from time to time, the "Parent Guaranty Agreement");

WHEREAS, on the Spin-Off Date, pursuant to Section 3.14 hereof (x) each of the Subsidiary Guarantors shall duly authorize, execute and deliver the Supplemental Indenture, to be dated as of the Spin-Off Date, pursuant to which each of the Subsidiary Guarantors shall guarantee on a senior secured basis, the full and punctual payment when due, whether at maturity, by acceleration or otherwise, all the Issuer's obligations under this Indenture and the Notes, whether for payment of principal of, premium, if any, or interest on the Notes, expenses, indemnification or otherwise, (y) each of the Issuer and the Subsidiary Guarantors shall duly authorize, execute and deliver each of the Note Security Documents to which it is a party, each to be dated as of the Spin-Off Date, pursuant to which the Notes will be secured by the Collateral as set forth in the Notes Security Documents and (z) each of the Issuer and the Subsidiary Guarantors, the Trustee, the Notes Collateral Agent, the Existing Notes Trustee, the Existing Notes Collateral Agent, the Credit Agreement Administrative Agent and the Credit Agreement Collateral Agent shall duly execute and deliver the First Lien Pari Passu Intercreditor Agreement, to be dated as of the Spin-Off Date; and

WHEREAS, on the settlement date of the Exchange (which is expected to occur one Business Day after the Issue Date and immediately following the consummation of the Spin-Off on the Spin-Off Date), pursuant to the Exchange Agreement and the Offer Cooperation Agreement, BD intends to transfer beneficial ownership of the Initial Notes to Morgan Stanley & Co. LLC ("Morgan Stanley") (through the facilities of DTC) in exchange for the BD Notes (as defined in the Offer to Purchase) purchased by Morgan Stanley in the tender offers that were commenced by it on March 16, 2022, on the terms and subject to the conditions set forth in the Offer to Purchase, dated March 16, 2022 (including the documents incorporated by reference therein and the exhibits, appendices, and attachments thereto, as amended, modified, or supplemented from time to time, the "Offer to Purchase", and such exchange, the "Exchange"), and immediately following the consummation of the Exchange, (x) BD intends to deliver the BD Notes it receives pursuant to the Exchange to the trustee of the BD Notes for cancellation, and (y) Morgan Stanley, as the sole book-running manager thereof, intends to sell the Initial Notes received in connection therewith to certain third-party investors, pursuant to, and in accordance with, the restrictions and regulations as set forth in this Indenture and the Offering Memorandum.

NOW, THEREFORE, in consideration of the premises and the purchase of the Notes by the Holders thereof, it is mutually covenanted and agreed, for the equal and proportionate benefit of all Holders, as follows:

ARTICLE I

DEFINITIONS AND INCORPORATION BY REFERENCE

SECTION 1.01 Definitions.

"Acquired EBITDA" means, with respect to any Acquired Entity or Business or any Converted Restricted Subsidiary for any period, the amount for such period of Consolidated EBITDA of such Acquired Entity or Business or Converted Restricted Subsidiary, as applicable, all determined on a consolidated basis for such Acquired Entity or Business or Converted Restricted Subsidiary, as applicable.

"Acquired Indebtedness" means, with respect to any Person, (x) Indebtedness of any other Person or any of its Subsidiaries existing at the time such other Person becomes a Restricted Subsidiary or merges or amalgamates with or into or consolidates or otherwise combines with the Issuer or any Restricted Subsidiary and (y) Indebtedness secured by a Lien encumbering any asset acquired by such Person. Acquired Indebtedness shall be deemed to have been incurred, with respect to clause (x) of the preceding sentence, on the date such Person becomes a Restricted Subsidiary or on the date of the relevant merger, amalgamation, consolidation, acquisition or other combination.

"Acquisition Indebtedness" means any Indebtedness incurred in connection with an acquisition or Investment permitted under this Indenture.

"Additional Assets" means:

(1) any property or assets (other than Capital Stock) used or to be used by the Issuer, a Restricted Subsidiary or otherwise useful in a Similar Business (it being understood that capital expenditures on property or assets already used in a Similar Business or to replace any property or assets that are the subject of such Asset Disposition shall be deemed an investment in Additional Assets);

(2) the Capital Stock of a Person that is engaged in a Similar Business and becomes a Restricted Subsidiary as a result of the acquisition of such Capital Stock by the Issuer or a Restricted Subsidiary; or

(3) Capital Stock constituting a minority interest in any Person that at such time is a Restricted Subsidiary.

"Additional Notes" has the meaning ascribed to it in the recitals of this Indenture.

"Affiliate" means, with respect to any specified Person, any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For the purposes of this definition, "control" when used with respect to any Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

"AI" means an "accredited investor" as described in Rule 501(a)(4) under the Securities Act.

"Alternative Currency" means any currency (other than Dollars) that is a lawful currency (other than Dollars) that is readily available and freely transferable and convertible into Dollars (as determined in good faith by the Issuer).

"Applicable Jurisdiction" means the United States of America, any state thereof or the District of Columbia.

"Applicable Percentage" means 100.0%; *provided* that the Applicable Percentage shall be (1) 50.0% if, on a pro forma basis after giving effect to such Asset Disposition and the use of proceeds therefrom the Consolidated First Lien Net Leverage Ratio would be less than or equal to 2.60 to 1.00 but greater than 2.10 to 1.00, or (2) 0.0% if, on a pro forma basis after giving effect to such Asset Disposition and the use of proceeds therefrom, the Consolidated First Lien Net Leverage Ratio would be less than or equal to 2.10 to 1.00. Any Net Available Cash in respect of an Asset Disposition that does not constitute Applicable Proceeds as a result of the application of this definition shall collectively constitute "Total Leverage Excess Proceeds."

"Asset Disposition" means:

(a) the voluntary 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 and Leaseback Transaction), in each case outside the ordinary course of business, of the Issuer or any of its Restricted Subsidiaries (in each case other than Capital Stock of the Issuer) (each referred to in this definition as a "disposition"); or

(b) the issuance or sale of Capital Stock of any Restricted Subsidiary (other than Preferred Stock or Disqualified Stock of Restricted Subsidiaries issued in compliance with Section 3.02 hereof or directors' qualifying shares and shares issued to foreign nationals as required under applicable law), whether in a single transaction or a series of related transactions;

in each case, other than:

(1) a disposition by the Issuer or a Restricted Subsidiary to the Issuer or a Restricted Subsidiary, including pursuant to any Intercompany License Agreement;

(2) a disposition of cash, Cash Equivalents or Investment Grade Securities, including any marketable securities portfolio owned by the Issuer and its Subsidiaries on the Spin-Off Date;

(3) a disposition of inventory, goods or other assets (including Settlement Assets) in the ordinary course of business or consistent with past practice or held for sale or no longer used in the ordinary course of business, including any disposition of disposed, abandoned or discontinued operations;

(4) a disposition of obsolete, worn-out, uneconomic, damaged, non-core or surplus property, equipment or other assets or property, equipment or other assets that are no longer economically practical or commercially desirable to maintain or used or useful in the business of the Issuer and its Restricted Subsidiaries whether now or hereafter owned or leased or acquired in connection with an

acquisition or used or useful in the conduct of the business of the Issuer and its Restricted Subsidiaries (including by ceasing to enforce, allowing the lapse, abandonment or invalidation of or discontinuing the use or maintenance of or putting into the public domain any intellectual property that is, in the reasonable judgment of the Issuer or its Restricted Subsidiaries, no longer used or useful, or economically practicable to maintain, or in respect of which the Issuer or any Restricted Subsidiary determines in its reasonable judgment that such action or inaction is desirable);

(5) transactions permitted under Section 4.01 hereof or a transaction that constitutes a Change of Control;

(6) an issuance of Capital Stock by a Restricted Subsidiary to the Issuer or to another Restricted Subsidiary or as part of or pursuant to an equity incentive or compensation plan approved by the Board of Directors of the Issuer;

(7) any dispositions of Capital Stock, properties or assets in a single transaction or series of related transactions with a fair market value (as determined in good faith by the Issuer) of less than the greater of (i) $75.0 million and (ii) 15.0% of LTM EBITDA;

(8) any Restricted Payment that is permitted to be made, and is made, under Section 3.03 and the making of any Permitted Payment or Permitted Investment, or solely for purposes of Section 3.05(a)(3), asset sales, the proceeds of which are used to make such Restricted Payments or Permitted Investments;

(9) dispositions in connection with Permitted Liens, Permitted Intercompany Activities, Permitted Tax Restructurings and related transactions;

(10) dispositions of receivables in connection with the compromise, settlement or collection thereof in the ordinary course of business or consistent with past practice or in bankruptcy or similar proceedings and exclusive of factoring or similar arrangements;

(11) conveyances, sales, transfers, licenses, sublicenses, cross-licenses or other dispositions of intellectual property, software or other general intangibles and licenses, sublicenses, cross-licenses (including the provision of software under an open source license), leases or subleases of other property, in each case, in the ordinary course of business or consistent with past practice or pursuant to a research or development agreement in which the counterparty to such agreement receives a license in the intellectual property or software that result from such agreement;

(12) the lease, assignment, license, sublease or sublicense of any real or personal property in the ordinary course of business or consistent with industry practice;

(13) foreclosure, condemnation, expropriation, forced disposition or any similar action with respect to any property or other assets or the granting of Liens not prohibited by this Indenture;

(14) the sale, discount or other disposition (with or without recourse, and on customary or commercially reasonable terms and for credit management purposes) of inventory, accounts receivable or notes receivable in the ordinary course of business or consistent with past practice, or the conversion or exchange of accounts receivable for notes receivable;

(15) any issuance or sale of Capital Stock in, or Indebtedness or other securities of, an Unrestricted Subsidiary or any other disposition of Capital Stock, Indebtedness or other securities of an Unrestricted Subsidiary or an Immaterial Subsidiary;

(16) any disposition of Capital Stock of a Restricted Subsidiary pursuant to an agreement or other obligation with or to a Person (other than the Issuer or a Restricted Subsidiary) from whom such Restricted Subsidiary was acquired, or from whom such Restricted Subsidiary acquired its business and assets (having been newly formed in connection with such acquisition), made as part of such acquisition and in each case comprising all or a portion of the consideration in respect of such sale or acquisition;

(17) (i) dispositions of property to the extent that such property is exchanged for credit against the purchase price of similar replacement property that is promptly purchased, (ii) dispositions of property to the extent that the proceeds of such disposition are promptly applied to the purchase price of such replacement property (which replacement property is actually promptly purchased) and (iii) to the extent treated as tax-free under Section 1031 of the Code or comparable law or regulation, any exchange of like property (excluding any boot thereon) for use in a Similar Business;

(18) any disposition of assets of the type specified in the definitions of "Securitization Assets" or "Receivables Assets," or participations therein, including in connection with any Qualified Securitization Financing or Receivables Facility;

(19) any financing transaction with respect to property constructed, acquired, leased, renewed, relocated, expanded, replaced, repaired, maintained, upgraded or improved (including any reconstruction, refurbishment, renovation and/or development of real property) by the Issuer or any Restricted Subsidiary after the Spin-Off Date, including Sale and Leaseback Transactions and asset securitizations, not prohibited by this Indenture;

(20) sales, transfers or other dispositions of Investments in joint ventures or similar entities to the extent required by, or made pursuant to customary buy/sell arrangements between, the parties set forth in joint venture arrangements and similar binding arrangements;

(21) any surrender or waiver of contractual rights or the settlement, release, surrender or waiver of contractual, tort, litigation or other claims of any kind;

(22) the unwinding of any Cash Management Obligations or Hedging Obligations;

(23) transfers of property or assets subject to Casualty Events upon receipt of the net proceeds of such Casualty Event; *provided* that any Cash Equivalents received by the Issuer or any of its Restricted Subsidiaries in respect of such Casualty Event shall be deemed to be Net Available Cash of an Asset Disposition, and such Net Available Cash shall be applied in accordance with Section 3.05;

(24) any disposition to a Captive Insurance Subsidiary;

(25) any sale of property or assets, if the acquisition of such property or assets was financed with Excluded Contributions and the proceeds of such sale are used to make a Restricted Payment pursuant to Section 3.03(b)(10)(b);

(26) the disposition of any assets (including Capital Stock) (i) acquired in a transaction after the Spin-Off Date, which assets are not useful in the core or principal business of the Issuer and its Restricted Subsidiaries, or (ii) made in connection with the approval of any applicable antitrust authority or otherwise necessary or advisable in the reasonable determination of the Issuer to consummate any acquisition;

(27) any sale, transfer or other disposition to affect the formation of any Subsidiary that is a Divided LLC; *provided* that upon formation of such Divided LLC, such Divided LLC shall be a Restricted Subsidiary if the entity was a Restricted Subsidiary prior to the formation of such Divided LLC;

(28) any disposition of (i) non-revenue producing assets to a Person who is providing services related to such assets, the provision of which have been or are to be outsourced by the Issuer or any Restricted Subsidiary to such Person, (ii) *de minimis* amounts of equipment provided to employees of the Issuer or any Subsidiary or (iii) samples, including time-limited evaluation software, provided to customer or prospective customers;

(29) [reserved];

(30) any disposition to effect the Transactions; and

(31) other sales or dispositions in an amount not to exceed the greater of (i) $175.0 million and (ii) 35.0% of LTM EBITDA.

In the event that a transaction (or any portion thereof) meets the criteria of a permitted Asset Disposition and would also be a Permitted Investment or an Investment permitted under Section 3.03, the Issuer, in its sole discretion, will be entitled to divide, classify and reclassify such transaction (or a portion thereof) as one or more types of Asset Dispositions and/or one or more of the types of Permitted Investments or Investments permitted under Section 3.03.

"Associate" means (i) any Person engaged in a Similar Business of which the Issuer or its Restricted Subsidiaries are the legal and beneficial owners of between 20% and 50% of all outstanding Voting Stock and (ii) any joint venture entered into by the Issuer or any Restricted Subsidiary.

"Bankruptcy Code" means Title 11 of the United States Code, as amended.

"Bankruptcy Law" means the Bankruptcy Code and any similar federal, state or foreign law for the relief of debtors.

"BD" means Becton, Dickinson and Company, a New Jersey corporation and the parent of the Issuer.

"BD Guarantee" means BD's Guarantee of Obligations under the Notes pursuant to the Parent Guaranty Agreement.

"Board of Directors" means (i) with respect to the Issuer or any corporation, the board of directors or managers, as applicable, of the corporation, or any duly authorized committee thereof; (ii) with respect to any partnership, the board of directors or other governing body of the general partner, as applicable, of the partnership or any duly authorized committee thereof; (iii) with respect to a limited liability company, the managing member or members or any duly authorized controlling committee thereof; and (iv) with respect to any other Person, the board or any duly authorized committee of such Person serving a similar function.

Whenever any provision requires any action or determination to be made by, or any approval of, a Board of Directors, such action, determination or approval shall be deemed to have been taken or made if approved by a majority of the directors on any such Board of Directors (whether or not such action or approval is taken as part of a formal board meeting or as a formal board approval). Unless the context requires otherwise, Board of Directors means the Board of Directors of the Issuer.

"Business Day" means each day that is not a Saturday, Sunday or other day on which banking institutions in New York, New York, United States or in the jurisdiction of the place of payment are authorized or required by law to close. 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 or performance shall extend to the immediately succeeding Business Day and such extension of time shall not be reflected in computing interest or fees, as the case may be.

"Business Successor" means (i) any former Subsidiary of the Issuer and (ii) any Person that, after the Spin-Off Date, has acquired, merged or consolidated with a Subsidiary of the Issuer (that results in such Subsidiary ceasing to be a Subsidiary of the Issuer), or acquired (in one transaction or a series of transactions) all or substantially all of the property and assets or business of a Subsidiary or assets constituting a business unit, line of business or division of a Subsidiary of the Issuer.

"Canadian Dollars" means freely transferable lawful money of Canada (expressed in Canadian dollars).

"Capital Stock" of any Person means any and all shares of, rights to purchase or acquire, warrants, options or depositary receipts for, or other equivalents of, or partnership or other interests in (however designated), equity of such Person, including any Preferred Stock, but excluding any debt securities convertible into, or exchangeable for, such equity.

"Capitalized Lease Obligation" means an obligation that is required to be classified and accounted for as a capitalized lease (in accordance with GAAP) (and, for the avoidance of doubt, not a straight-line or operating lease) for financial reporting purposes. The amount of Indebtedness represented by such obligation will be the capitalized amount of such obligation at the time any determination thereof is to be made as determined in accordance with GAAP, and the Stated Maturity thereof will be the date of the last payment of rent or any other amount due under such lease prior to the first date such lease may be terminated without penalty; *provided* that all obligations of the Issuer and its Restricted Subsidiaries that are or would be characterized as an operating lease as determined in accordance with GAAP as in effect on January 1, 2015 (whether or not such operating lease was in effect on such date) shall continue to be accounted for as an operating lease (and not as a Capitalized Lease Obligation) for purposes of this Indenture regardless of any change in GAAP following January 1, 2015 (in each case, that would otherwise require such obligation to be recharacterized as a Capitalized Lease Obligation).

"Capitalized Software Expenditures" means, for any period, the aggregate of all expenditures (whether paid in cash or accrued as liabilities) by a Person and its Restricted Subsidiaries during such period in respect of licensed or purchased software or internally developed software and software enhancements that, in conformity with GAAP, are or are required to be reflected as capitalized costs on the consolidated balance sheet of a Person and its Restricted Subsidiaries.

"Captive Insurance Subsidiary" means (i) any Subsidiary of the Issuer operating for the purpose of (a) insuring the businesses, operations or properties owned or operated by the Issuer or any of its Subsidiaries, including their future, present or former employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members), and related benefits and/or (b) conducting any activities or business incidental thereto (it being understood and agreed that activities which are relevant or appropriate to qualify as an insurance company for U.S. federal or state tax purposes shall be considered "activities or business incidental thereto") or (ii) any Subsidiary of any such insurance subsidiary operating for the same purpose described in clause (i) above.

"Cash Equivalents" means:

(1) (a) Dollars, Canadian Dollars, Pounds Sterling, Yen, Euro, any national currency of any member state of the European Union or any Alternative Currency; or (b) any other foreign currency held by the Issuer and its Restricted Subsidiaries from time to time in the ordinary course of business or consistent with past practice;

(2) securities issued or directly and fully guaranteed or insured by the United States, Canadian, United Kingdom or Japanese governments, a member state of the European Union or, in each case, any agency or instrumentality thereof (*provided* that the full faith and credit obligation of such country or such member state is pledged in support thereof), with maturities of 36 months or less from the date of acquisition;

(3) certificates of deposit, time deposits, eurodollar time deposits, overnight bank deposits, demand deposits or bankers' acceptances having maturities of not more than two years from the date of acquisition thereof issued by any bank, trust company or other financial institution (a) whose commercial paper is rated at least "P-2" or the equivalent thereof by S&P or at least "A-2" or the equivalent thereof by Moody's (or, if at the time, neither S&P or Moody's is rating such obligations, then a comparable rating from another Nationally Recognized Statistical Rating Organization selected by the Issuer) or (b) having combined capital and surplus in excess of $100.0 million;

(4) repurchase obligations for underlying securities of the types described in clauses (2), (3), (7) and (8) entered into with any Person meeting the qualifications specified in clause (3) above;

(5) securities with maturities of two years or less from the date of acquisition backed by standby letters of credit issued by any Person meeting the qualifications in clause (3) above;

(6) commercial paper and variable or fixed rate notes issued by any Person meeting the qualifications specified in clause (3) above (or by the parent company thereof) maturing within two years after the date of creation thereof, or if no rating is available in respect of the commercial paper or variable or fixed rate notes, the issuer of which has an equivalent rating in respect of its long-term debt;

(7) marketable short-term money market and similar securities having a rating of at least "P-2" or "A-2" from either S&P or Moody's, respectively (or, if at the time, neither S&P nor Moody's is rating such obligations, then a comparable rating from another Nationally Recognized Statistical Rating Organization selected by the Issuer);

(8) readily marketable direct obligations issued by any state, province, commonwealth or territory of the United States of America or any political subdivision, taxing authority or any agency or instrumentality thereof, rated BBB- (or the equivalent) or better by S&P or Baa3 (or the equivalent) or better by Moody's (or, if at the time, neither S&P nor Moody's is rating such obligations, then a comparable rating from another Nationally Recognized Statistical Rating Organization selected by the Issuer) with maturities of not more than two years from the date of acquisition;

(9) readily marketable direct obligations issued by any foreign government or any political subdivision, taxing authority or agency or instrumentality thereof, with a rating of "BBB-" or higher from S&P or "Baa3" or higher by Moody's or the equivalent of such rating by such rating organization (or, if at the time, neither S&P nor Moody's is rating such obligations, then a comparable rating from another Nationally Recognized Statistical Rating Organization selected by the Issuer) with maturities of not more than two years from the date of acquisition;

(10) Investments with average maturities of 24 months or less from the date of acquisition in money market funds with a rating of "A" or higher from S&P or "A-2" or higher by Moody's or the equivalent of such rating by such rating organization (or, if at the time, neither S&P nor Moody's is rating such obligations, then a comparable rating from another Nationally Recognized Statistical Rating Organization selected by the Issuer);

(11) with respect to any Non-U.S. Subsidiary: (i) obligations of the national government of the country in which such Non-U.S. Subsidiary maintains its chief executive office and principal place of business; *provided* such country is a member of the Organization for Economic Cooperation and Development, in each case maturing within one year after the date of investment therein, (ii) certificates of deposit of, bankers' acceptance of, or time deposits with, any commercial bank which is organized and existing under the laws of the country in which such Non-U.S. Subsidiary maintains its chief executive office and principal place of business provided such country is a member of the Organization for Economic Cooperation and Development, and whose short-term commercial paper rating from S&P is at least "P-2" or the equivalent thereof or from Moody's is at least "A-2" or the equivalent thereof (any such bank being an "Approved Foreign Bank"), and in each case with maturities of not more than 270 days from the date of acquisition and (iii) the equivalent of demand deposit accounts which are maintained with an Approved Foreign Bank;

(12) Indebtedness or Preferred Stock issued by Persons with a rating of "BBB-" or higher from S&P or "Baa3" or higher by Moody's or the equivalent of such rating by such rating organization (or, if at the time, neither S&P nor Moody's is rating such obligations, then a comparable rating from another Nationally Recognized Statistical Rating Organization selected by the Issuer) with maturities of not more than two years from the date of acquisition;

(13) bills of exchange issued in the United States of America, Canada, the United Kingdom, Japan, a member state of the European Union eligible for rediscount at the relevant central bank and accepted by a bank (or any dematerialized equivalent);

(14) investments in industrial development revenue bonds that (i) "re-set" interest rates not less frequently than quarterly, (ii) are entitled to the benefit of a remarketing arrangement with an established broker dealer and (iii) are supported by a direct pay letter of credit covering principal and accrued interest that is issued by any bank meeting the qualifications specified in clause (3) above;

(15) investments in pooled funds or investment accounts consisting of investments in the nature described in the foregoing clause (14);

(16) investments in money market funds access to which is provided as part of "sweep" accounts maintained with any bank meeting the qualifications specified in clause (3) above;

(17) Cash Equivalents or instruments similar to those referred to in clauses (1) through (16) above denominated in Dollars or any Alternative Currency; and

(18) any investment company, money market, enhanced high yield, pooled or other investment fund investing 90% or more of its assets in instruments of the types specified in clauses (1) through (17) above.

In the case of Investments by any Non-U.S. Subsidiary that is a Restricted Subsidiary or Investments made in a country outside the United States of America, Cash Equivalents shall also include (a) investments of the type and maturity described in the clauses above of foreign obligors, which Investments or obligors (or the parents of such obligors) have ratings described in such clauses or equivalent ratings from comparable foreign rating agencies and (b) other short-term investments utilized by Non-U.S. Subsidiaries that are Restricted Subsidiaries in accordance with normal investment practices for cash management in investments analogous to the foregoing investments in the clauses above and in this paragraph.

In addition, in the case of Investments by any Captive Insurance Subsidiary, Cash Equivalents shall also include (a) such Investments with average maturities of 12 months or less from the date of acquisition in issuers rated BBB- (or the equivalent thereof) or better by S&P or Baa3 (or the equivalent thereof) or better by Moody's, in each case at the time of such Investment and (b) any Investment with a maturity of more than 12 months that would otherwise constitute Cash Equivalents of the kind described in any of clauses of this definition above or clause (a) in this paragraph, if the maturity of such Investment was 12 months or less; *provided* that the effective maturity of such Investment does not exceed 15 years.

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.

For the avoidance of doubt, any items identified as Cash Equivalents under this definition will be deemed to be Cash Equivalents for all purposes under this Indenture regardless of the treatment of such items under GAAP.

"Cash Management Obligations" means (1) obligations in respect of any overdraft and related liabilities arising from treasury, depository, cash pooling arrangements, electronic fund transfer, treasury services and cash management services, including controlled disbursement services, working capital lines, lines of credit, overdraft facilities, foreign exchange facilities, deposit and other accounts and merchant services, or other cash management arrangements or any automated clearing house arrangements, (2) other obligations in respect of netting or setting off arrangements, credit, debit or purchase card programs, stored value card and similar arrangements and (3) obligations in respect of any other services related, ancillary or complementary to the foregoing (including any overdraft and related liabilities arising from treasury, depository, cash pooling arrangements and cash management services, corporate credit and purchasing cards and related programs or any automated clearing house transfers of funds).

"Casualty Event" means any event that gives rise to the receipt by the Issuer or any Restricted Subsidiary of any insurance proceeds or condemnation awards in respect of any equipment, assets or real property (including any improvements thereon) to replace or repair such equipment, assets or real property.

"CFC" means a "controlled foreign corporation" within the meaning of Section 957 of the Code.

"Change of Control" means (x) prior to the Spin-Off Date, BD ceases to own, directly or indirectly, 100% of the Equity Interests of the Issuer, and (y) at any time, (1) the Issuer becomes aware of (by way of a report or any other filing pursuant to Section 13(d) of the Exchange Act, proxy, vote, written notice or otherwise) any "person" (as such term is used in Sections 13(d) and 14(d) of the Exchange Act as in effect on the Issue Date), other than a Parent Entity (or, prior to the Spin-Off Date, BD or any of its Subsidiaries), that is or becomes the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 of the Exchange Act as in effect on the Issue Date) of more than 50% of the total voting power of the Voting

Stock of the Issuer; *provided* that, so long as the Issuer is a Subsidiary of any Parent Entity, no person shall be deemed to be or become a beneficial owner of more than 50% of the total voting power of the Voting Stock of the Issuer unless such person shall be or become a beneficial owner of more than 50% of the total voting power of the Voting Stock of such Parent Entity (other than a Parent Entity that is a Subsidiary of another Parent Entity); or (2) the sale or transfer, in one or a series of related transactions, of all or substantially all of the assets of the Issuer and its Restricted Subsidiaries, taken as a whole, to a Person (other than the Issuer or any of its Restricted Subsidiaries) and any "person" (as defined in clause (1) above), other than any Parent Entity, is or becomes the "beneficial owner" (as so defined) of more than 50% of the total voting power of the Voting Stock of the transferee person in such sale or transfer of assets, as the case may be; *provided* that, so long as the Issuer is a Subsidiary of any Parent Entity, no Person shall be deemed to be or become a beneficial owner of more than 50% of the total voting power of the Voting Stock of the Issuer unless such Person shall be or become a beneficial owner of more than 50% of the total voting power of the Voting Stock of such Parent Entity (other than a Parent Entity that is a Subsidiary of another Parent Entity).

Notwithstanding the preceding or any provision of Section 13d-3 of the Exchange Act, (i) a Person or group shall not be deemed to beneficially own Voting Stock subject to a stock or asset purchase agreement, merger agreement, option agreement, warrant agreement or similar agreement (or voting or option or similar agreement related thereto) until the consummation of the acquisition of the Voting Stock in connection with the transactions contemplated by such agreement, (ii) a Person or group will not be deemed to beneficially own the Voting Stock of another Person as a result of its ownership of Voting Stock or other securities of such other Person's parent entity (or related contractual rights) unless it owns 50% or more of the total voting power of the Voting Stock entitled to vote for the election of directors of such parent entity having a majority of the aggregate votes on the board of directors (or similar body) of such parent entity, (iii) the right to acquire Voting Stock (so long as such Person does not have the right to direct the voting of the Voting Stock subject to such right) or any veto power in connection with the acquisition or disposition of Voting Stock will not cause a party to be a beneficial owner and (iv) a passive holding company or special purpose acquisition vehicle shall not be considered a "person" and instead the equityholders of such passive holding company or special purpose acquisition vehicle shall be considered for purposes of the foregoing.

"Code" means the U.S. Internal Revenue Code of 1986, as amended from time to time.

"Collateral" means all property subject or purported to be subject, from time to time, to a Lien under any Notes Security Documents.

"Consolidated Depreciation and Amortization Expense" means, with respect to any Person for any period, the total amount of depreciation and amortization expense and capitalized fees, including amortization or write-off of:

(i) intangible assets and non-cash organization costs,

(ii) deferred financing and debt issuance fees, costs and expenses,

(iii) property, plant and equipment consisting of leasehold improvements, freehold improvements, office equipment and fittings,

(iv) right-of-use assets consisting of property and office equipment,

(v) capitalized expenditures (including Capitalized Software Expenditures), customer acquisition costs and incentive payments and signing bonuses, upfront payments related to any contract signing, media development costs, conversion costs and contract acquisition costs, the amortization of original issue discount resulting from the issuance of Indebtedness at less than par and amortization of favorable or unfavorable lease assets or liabilities, and

(vi) capitalized fees related to any Qualified Securitization Financing or Receivables Facility, of such Person and its Restricted Subsidiaries for such period on a consolidated basis and otherwise determined in accordance with GAAP and any write-down of assets or asset value carried on the balance sheet.

"Consolidated EBITDA" means, with respect to any Person for any period, the Consolidated Net Income of such Person for such period:

(1) increased (without duplication) by:

(a) Fixed Charges of such Person for such period (including (w) non-cash rent expense and the implied interest component of synthetic leases with respect to such period, (x) net payments and losses or any obligations on any Hedging Obligations or other derivative instruments, (y) bank, letter of credit and other financing fees and (z) costs of surety bonds in connection with financing activities, plus amounts excluded from the definition of "Consolidated Interest Expense" and any non-cash interest expense), to the extent deducted (and not added back) in computing Consolidated Net Income; *plus*

(b) (x) provision for taxes based on income, profits, revenue or capital, including federal, foreign, state, provincial, territorial, local, unitary, excise, property, franchise, value added and similar taxes and withholding taxes (including any future taxes or other levies which replace or are intended to be in lieu of such taxes and any penalties, additions to tax and interest related to such taxes or arising from tax examinations), state taxes in lieu of business fees (including business license fees), payroll tax credits, income tax credits and similar credits, and similar taxes of such Person paid or accrued during such period (including in respect of repatriated funds), (y) any distributions made to a direct or indirect parent of the Issuer with respect to the foregoing and (z) the net tax expense associated with any adjustments made pursuant to the definition of "Consolidated Net Income" in each case, to the extent deducted (and not added back) in computing Consolidated Net Income; *plus*

(c) Consolidated Depreciation and Amortization Expense of such Person for such period to the extent deducted (and not added back) in computing Consolidated Net Income; *plus*

(d) any fees, costs, expenses or charges (other than Consolidated Depreciation and Amortization Expense) related to any actual, proposed or contemplated Equity Offering (including any expense relating to enhanced accounting functions or other transaction costs associated with becoming or being a stand-alone entity or a public company, including Public Company Costs), Permitted Investment, Restricted Payment, acquisition, disposition, recapitalization or the incurrence of Indebtedness permitted to be incurred by this Indenture (including a refinancing thereof) (whether or not successful and including any such transaction consummated prior to the Issue Date), including (i) such fees, expenses or charges (including rating agency fees, consulting fees and other related expenses and/or letter of credit or similar fees) related to the offering or incurrence of, or ongoing administration of the Notes, the Credit Agreement, any other Credit Facilities or notes, any Securitization Fees and the Transactions, including Transaction Costs, and (ii) any amendment, waiver or other modification of the Notes, the Credit Agreement, Receivables Facilities, Securitization Facilities, any other Credit Facilities or notes, any Securitization Fees, any other Indebtedness or any Equity Offering, in each case, whether or not consummated, to the extent deducted (and not added back) in computing Consolidated Net Income; *plus*

(e) (i) the amount of any restructuring charge, accrual, reserve (and adjustments to existing reserves) or expense, integration cost, inventory optimization programs or other business optimization expense or cost (including charges directly related to the implementation of operating expense reductions, platform consolidations and migrations, transitions, insourcing initiatives, operating improvements, cost-savings initiatives and tax restructurings) that is deducted (and not added back) in such period in computing Consolidated Net Income, including any costs incurred in connection with acquisitions or divestitures after the Issue Date, any severance, retention, signing bonuses, relocation, recruiting and other employee related costs, costs in respect of strategic initiatives and curtailments or modifications to pension and post-retirement employment benefit plans (including any settlement of pension liabilities), costs related to entry into new markets (including unused office or warehouse space costs) and new product design, development and introductions (including intellectual property development, labor costs, scrap costs and lower absorption of costs, including due to decreased productivity and greater inefficiencies), systems and/or software development and establishment costs, operational and reporting systems, technology initiatives, contract termination costs, costs related to customer disputes, distribution networks or sales channels, the implementation, replacement, development or upgrade of operational, reporting and information technology systems and technology initiatives, contract termination, retention, recruiting, severance, signing, consulting and transition services arrangements, future lease commitments, lease breakage and costs related to the pre-opening, opening and closure and/or consolidation of facilities (including severance, rent termination, moving and legal costs) and to exiting lines of business and consulting fees incurred with any of the foregoing and (ii) fees, costs and expenses associated with acquisition related litigation and settlement thereof; *plus*

(f) any other non-cash charges, write-downs, expenses, losses or items reducing Consolidated Net Income for such period including (i) non-cash losses on the sale of assets and any write-offs or write-downs, deferred revenue or impairment charges, (ii) impairment charges, amortization (or write offs) of financing costs (including debt discount, debt issuance costs and commissions and other fees associated with Indebtedness, including the Notes, the Existing Notes and the Credit Agreement) of such Person and its Subsidiaries and/or (iii) the impact of acquisition method accounting adjustment and any non-cash write-up, write-down or write-off with respect to re-valuing assets and liabilities in connection with the Transactions or any Investment, deferred revenue or any effects of adjustments resulting from the application of purchase accounting, purchase price accounting (including any step-up in inventory and loss of profit on the acquired inventory) (*provided* that if any such non-cash charge, write-down, expense, loss or item represents an accrual or reserve for potential cash items in any future period, (A) the Issuer may elect not to add back such non-cash charge, expense or loss in the current period and (B) to the extent the Issuer elects to add back such non-cash charge, the cash payment in respect thereof in such future period shall be subtracted from Consolidated EBITDA when paid), or other items classified by the Issuer as special items less other non-cash items of income increasing Consolidated Net Income (excluding any amortization of a prepaid cash item that was paid in a prior period or such non-cash item of income to the extent it represents a receipt of cash in any future period); *plus*

(g) the amount of pro forma "run rate" cost savings (including cost savings with respect to salary, benefit and other direct savings resulting from workforce reductions and facility, benefit and insurance savings and any savings expected to result from the reduction of a public target's Public Company Costs), operating expense reductions, other operating improvements (including the entry into material contracts or arrangements), revenue enhancements, and initiatives and synergies (including, to the extent applicable, from (i) the Transactions, (ii) mergers or other business combinations, acquisitions or other investments, divestitures, restructurings, integration, insourcing initiatives, operating improvements, cost savings initiatives or any other initiative, action or event, (iii) the effect of new customer contracts or projects and/or (iv) increased pricing or volume in existing contracts) (it is understood and agreed that "run rate" means the full recurring benefit for a period that is associated with any action taken, committed to be taken or expected to be taken, net of the amount of actual benefits realized during such period form such actions) projected by the Issuer in good faith to be reasonably anticipated to be realizable or a plan for realization shall have been established within 36 months of the date thereof (including from any actions taken in whole or in part prior to such date), which will be added to Consolidated EBITDA as so projected until fully realized and calculated on a pro forma basis as though such cost savings (including cost savings with respect to salary, benefit and other direct savings resulting from workforce reductions and facility, benefit and insurance savings and any savings expected to result from the reduction of a public target's Public Company Costs), operating expense reductions, other operating improvements, revenue enhancements and initiatives and synergies had been realized on the first day of such period, net of the amount of actual benefits realized prior to or during such period from such actions; *plus*

(h) any costs or expenses incurred by the Issuer or a Restricted Subsidiary or a Parent Entity pursuant to any management equity plan, stock option plan, phantom equity plan, profits interests or any other management, employee benefit or other compensatory plan or agreement (and any successor plans or arrangements thereto), employment, termination or severance agreement, or any stock subscription or equityholder agreement, and any costs or expenses in connection with the roll-over, acceleration or payout of Capital Stock held by management, to the extent that such costs or expenses are non-cash or otherwise funded with cash proceeds contributed to the capital of the Issuer or net cash proceeds of an issuance of Capital Stock (other than Disqualified Stock) of the Issuer; *plus*

(i) cash receipts (or any netting arrangements resulting in reduced cash expenditures) not representing Consolidated EBITDA or Consolidated Net Income in any period to the extent non-cash gains relating to such income were deducted in the calculation of Consolidated EBITDA pursuant to clause (2) below for any previous period and not added back; *plus*

(j) any net loss included in the Consolidated Net Income attributable to non-controlling or minority interests pursuant to the application of Accounting Standards Codification Topic 810-10-45 (or any successor provision or other financial accounting standard having a similar result or effect); *plus*

(k) the amount of any non-controlling or minority interest expense consisting of Subsidiary income attributable to non-controlling or minority equity interests of third parties in any non-Wholly Owned Subsidiary; *plus*

(l) (i) unrealized or realized foreign exchange losses resulting from the impact of foreign currency changes and (ii) gains and losses due to fluctuations in currency values and related tax effects determined in accordance with GAAP; *plus*

(m) with respect to any joint venture, an amount equal to the proportion of those items described in clauses (a), (b) and (c) above relating to such joint venture corresponding to the Issuer's and its Restricted Subsidiaries' proportionate share of such joint venture's Consolidated Net Income (determined as if such joint venture were a Restricted Subsidiary) to the extent deducted (and not added back) in computing Consolidated Net Income; *plus*

(n) the amount of any costs, charges or expenses relating to payments made to stock appreciation or similar rights, stock option, restricted stock, phantom equity, profits interests or other interests or rights holders of the Issuer or any of its Subsidiaries or any Parent Entity in connection with, or as a result of, any distribution being made to equityholders of such Person or any of its Subsidiaries or any Parent Entities, 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*

(o) adjustments of the nature or type used in (i) connection with the calculation of "Adjusted EBITDA" as set forth in footnote (3) of "Summary Historical and Unaudited Pro Forma Financial Information" contained in the Offering Memorandum and other adjustments of a similar nature to the foregoing, (ii) at the option of the Issuer, any adjustments (including pro forma adjustments) of the type reflected in any quality of earnings report obtained in connection with the Transactions or from time to time prepared with respect to the target of an acquisition or Investment by a nationally recognized financial advisor or accounting firm; *plus*

(p) [reserved]; *plus*

(q) losses, charges and expenses related to the pre-opening and opening of new locations, and start-up period prior to opening, that are operated, or to be operated, by the Issuer or any Restricted Subsidiary; *plus*

(r) rent expense as determined in accordance with GAAP not actually paid in cash during such period (net of rent expense paid in case during such period over and above rent expense as determined in accordance with GAAP); *plus*

(s) losses, charges and expenses related to a new location, plant or facility until the date that is 24 months after the date of commencement of construction or the date of acquisition thereof, as applicable; *plus*

(t) any non-cash increase in expense resulting from the revaluation of inventory (including any impact of changes to inventory valuation policy methods including changes in capitalization of variances) or other inventory adjustments; *plus*

(u) (1) the net increase (which, for the avoidance of doubt, shall not be negative), if any, of the difference between: (i) the deferred revenue of such Person and its Restricted Subsidiaries, as of the last day of such period (the "Determination Date") and (ii) the deferred revenue of such Person and its Restricted Subsidiaries as of the date that is 12 months prior to the Determination Date, and (2) without duplication of any adjustment pursuant to clause (1), the net adjustment for the annualized full-year gross profit contribution from new customer contracts signed during the 12 months prior to the Determination Date; *plus*

(v) the amount of incremental contract value of the Issuer and its Restricted Subsidiaries that the Issuer in good faith reasonably believes would have been realized or achieved as Consolidated EBITDA contribution from (i) increased pricing or volume initiatives and/or (ii) the entry into (and performance under) binding and effective new agreements with new customers or, if generating incremental contract value, new agreements (or amendments to

existing agreements) with existing customers (collectively, "New Contracts") during such period had such New Contracts been effective and had performance thereunder commenced as of the beginning of such period (including, without limitation, such incremental contract value attributable to New Contracts that are in excess of (but without duplication of) contract value attributable to New Contracts that has been actually realized as Consolidated EBITDA contribution during such period) as long as such incremental contract value is reasonably identifiable and factually supportable; *provided* that such incremental contract value shall be calculated on a pro forma basis as though the full run rate effect of such incremental contract value had been realized as Consolidated EBITDA contributed on the first day of such period; *plus*

(w) any fees, costs and expenses incurred in connection with the adoption or implementation of Accounting Standards Codification Topic 606—Revenue from Contracts with Customers (or any successor provision or other financial accounting standard having a similar result or effect), and any non-cash losses or charges resulting from the application of Accounting Standards Codification Topic 606—Revenue from Contracts with Customers (or any successor provision or other financial accounting standard having a similar result or effect); *plus*

(x) any fees, costs, expenses or charges related to or recorded in cost of sales to recognize cost on a last-in-first-out basis; *plus*

(y) earn-out obligations incurred in connection with any acquisition or other Investment and paid or accrued during the applicable period, including any mark-to-market adjustments; and

(2) decreased (without duplication) by non-cash gains increasing Consolidated Net Income of such Person for such period, excluding any non-cash gains to the extent they represent the reversal of an accrual or reserve for a potential cash item that reduced Consolidated EBITDA in any prior period (other than non-cash gains relating to the application of Accounting Standards Codification Topic 842—Leases) (or any successor provision or other financial accounting standard having a similar result or effect).

There shall be included in determining Consolidated EBITDA for any period, without duplication, (A) the Acquired EBITDA of any Person, property, business or asset acquired by the Issuer or any Restricted Subsidiary (including, as applicable, the property, businesses and assets acquired by (or contributed to) the Issuer and its Restricted Subsidiaries as part of the Transactions) during such period to the extent not subsequently sold, transferred or otherwise disposed of by the Issuer or such Restricted Subsidiary during such period (each such Person, property, business or asset acquired and not subsequently so disposed of, an "Acquired Entity or Business"), and the Acquired EBITDA of any Unrestricted Subsidiary that is converted into a Restricted Subsidiary during such period (each, a "Converted Restricted Subsidiary"), based on the actual Acquired EBITDA of such Acquired Entity or Business or Converted Restricted Subsidiary for such period (including the portion thereof occurring prior to such acquisition) and (B) pro forma adjustments in respect of each Acquired Entity or Business as are consistent with the definition of "Pro Forma Basis."

For purposes of determining the Consolidated EBITDA for any period, there shall be excluded in determining Consolidated EBITDA for any period the Disposed EBITDA of any Person, property, business or asset (other than an Unrestricted Subsidiary) sold, transferred or otherwise disposed of, closed or classified as discontinued operations by the Issuer or any Restricted Subsidiary during such period (each such Person, property, business or asset so sold or disposed of, a "Sold Entity or Business") and the Disposed EBITDA of any Restricted Subsidiary that is converted into an Unrestricted Subsidiary during such period (each, a "Converted Unrestricted Subsidiary"), based on the actual Disposed EBITDA of such

Sold Entity or Business or Converted Unrestricted Subsidiary for such period (including the portion thereof occurring prior to such sale, transfer or disposition); *provided* that for the avoidance of doubt, at the Issuer's option, notwithstanding any classification under GAAP of any Person, property, business or asset as discontinued operations, the Disposed EBITDA of such Person, property, business or asset shall not be excluded for any purposes hereunder until such disposition shall have been consummated.

Notwithstanding the foregoing, Consolidated EBITDA (a) for the fiscal quarter ended September 30, 2021, shall be deemed to be $115.0 million, (b) for the fiscal quarter ended June 30, 2021, shall be deemed to be $123.0 million and (c) for the fiscal quarter ended March 31, 2021, shall be deemed to be $126.0 million, in each case, as may be subject to addbacks and adjustments (without duplication) pursuant to clauses (1) and (2) above upon the occurrence of a "pro forma" event that occurs after the Issue Date and which is deemed to have occurred as of the first day of a period that includes any of the foregoing fiscal quarters.

"Consolidated First Lien Net Leverage Ratio" means, as of any date of determination, the ratio of (a) Consolidated Funded First Lien Indebtedness of the Issuer and its Restricted Subsidiaries as of such date to (b) LTM EBITDA.

"Consolidated Funded First Lien Indebtedness" means Consolidated Total Indebtedness of the Issuer and its Restricted Subsidiaries that is secured by a Lien on the Collateral on an equivalent priority basis (but, in each case, without regard to control of remedies) with the Liens on the Collateral securing the Obligations in respect of the Notes. For the avoidance of doubt, Consolidated Funded First Lien Indebtedness shall not include Capitalized Lease Obligations or Purchase Money Obligations.

"Consolidated Interest Expense" means, with respect to any Person for any period, without duplication, the sum of:

(1) consolidated interest expense of such Person and its Restricted Subsidiaries for such period, to the extent such expense was deducted (and not added back) in computing Consolidated Net Income, which shall include:

(a) amortization of original issue discount or premium resulting from the issuance of Indebtedness at less than par,

(b) all commissions, discounts and other fees and charges owed with respect to letters of credit or bankers acceptances,

(c) non-cash interest payments (but excluding any non-cash interest expense attributable to the movement in mark-to-market valuation of any Hedging Obligations or other derivative instruments pursuant to GAAP),

(d) the interest component of Capitalized Lease Obligations, and

(e) net payments, if any made (less net payments, if any, received), pursuant to interest rate Hedging Obligations with respect to Indebtedness, and which shall exclude:

(i) Securitization Fees,

(ii) penalties and interest relating to taxes,

(iii) annual agency or similar fees paid to the administrative agents, collateral agents and other agents under any Credit Facility,

(iv) any additional interest or liquidated damages owing pursuant to any registration rights obligations,

(v) costs associated with obtaining Hedging Obligations,

(vi) accretion or accrual of discounted liabilities other than Indebtedness,

(vii) any expense resulting from the discounting of any Indebtedness in connection with the application of recapitalization accounting or purchase accounting in connection with the Transactions or any acquisition,

(viii) amortization, expensing or write-off of deferred financing fees, amendment and consent fees, debt issuance costs, debt discount or premium, terminated hedging obligations and other commissions, fees and expenses, discounted liabilities, original issue discount and any other amounts of non-cash interest and, adjusted to the extent included, to exclude any refunds or similar credits received in connection with the purchasing or procurement of goods or services under any purchasing card or similar program,

(ix) any expensing of bridge, arrangement, structuring, commitment, agency, consent and other financing fees and any other fees related to the Transactions or any acquisitions after the Issue Date,

(x) any accretion of accrued interest on discounted liabilities and any prepayment, make-whole or breakage premium, penalty or cost,

(xi) interest expense with respect to Indebtedness of any direct or indirect parent of such Person resulting from push-down accounting,

(xii) any lease, rental or other expense in connection with a Non-Financing Lease Obligations, and

(xiii) any interest expense attributable to any actual or prospective legal settlement, fine, judgment or order; *plus*

(2) consolidated capitalized interest of such Person and its Restricted Subsidiaries for such period, whether paid or accrued; *less*

(3) interest income for such period.

For purposes of this definition, interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by such Person to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP.

"Consolidated Net Income" means, with respect to any Person for any period, the net income (loss) of such Person and its Restricted Subsidiaries for such period determined on a consolidated basis in accordance with GAAP and before any reduction in respect of Preferred Stock dividends; *provided*, *however*, that there will not be included in such Consolidated Net Income:

(1) any net income (loss) of any Person if such Person is not a Restricted Subsidiary (including any net income (loss) from investments recorded in such Person under the equity method of accounting), except that the Issuer's equity in the net income of any such Person for such period will be included in such Consolidated Net Income up to the aggregate amount of cash or Cash Equivalents actually distributed (or to the extent converted into cash or Cash Equivalents) or that (as determined by the Issuer in its reasonable discretion) could have been distributed by such Person during such period to the Issuer or a Restricted Subsidiary as a dividend or other distribution or return on investment;

(2) solely for the purpose of determining the amount available for Restricted Payments under clause (A) of the Available Amount Builder Basket, any net income (loss) of any Restricted Subsidiary (other than the Guarantors) if such Subsidiary is subject to restrictions, directly or indirectly, on the payment of dividends or the making of distributions by such Restricted Subsidiary, directly or indirectly, to the Issuer or any Guarantor by operation of the terms of such Restricted Subsidiary's articles, charter or any agreement, instrument, judgment, decree, order, statute or governmental rule or regulation applicable to such Restricted Subsidiary or its stockholders (other than (a) restrictions that have been waived or otherwise released (or such Person reasonably believes such restriction could be waived or released and is using commercially reasonable efforts to pursue such waiver or release), (b) restrictions pursuant to the Credit Agreement, the Notes, this Indenture or other similar indebtedness and (c) restrictions specified in Section 3.04(b)(14)(i)), except that the Issuer's equity in the net income of any such Restricted Subsidiary for such period will be included in such Consolidated Net Income up to the aggregate amount of cash or Cash Equivalents actually distributed (or to the extent converted, or having the ability to be converted, into cash or Cash Equivalents) or that could have been distributed by such Restricted Subsidiary during such period to the Issuer or another Restricted Subsidiary as a dividend or other distribution (subject, in the case of a dividend to another Restricted Subsidiary, to the limitation contained in this clause);

(3) any gain (or loss) (a) in respect of facilities no longer used or useful in the conduct of the business of the Issuer or its Restricted Subsidiaries, abandoned, transferred, closed, disposed or discontinued operations, (b) on disposal, abandonment or discontinuance of disposed, abandoned, transferred, closed or discontinued operations, and (c) attributable to asset dispositions, abandonments, sales or other dispositions of any asset (including pursuant to any Sale and Leaseback Transaction) or the designation of an Unrestricted Subsidiary other than in the ordinary course of business;

(4) (a) any extraordinary, exceptional, unusual, infrequently occurring or nonrecurring loss, charge or expense, as well as Transaction Costs, Public Company Costs, restructuring and duplicative running costs, restructuring charges or reserves (whether or not classified as restructuring expense on the consolidated financial statements), relocation costs, start-up or initial costs for any project or new production line, division or new line of business, integration and facilities' or bases' opening costs, facility consolidation and closing costs, severance costs and expenses, one-time charges (including compensation charges), payments made pursuant to the terms of change in control agreements that the Issuer or a Subsidiary or a Parent Entity had entered into with employees of the Issuer or a Subsidiary or a Parent Entity, costs relating to pre-opening, opening and conversion costs for facilities, losses, costs or cost inefficiencies related to project terminations, facility or property disruptions or shutdowns (including due to work stoppages, natural disasters and epidemics), signing, retention and completion bonuses (including management bonus pools), recruiting costs, costs incurred in connection with any strategic or cost savings initiatives, transition costs, contract terminations, litigation and arbitration fees, costs and charges, expenses in connection with one-time rate changes, costs incurred with acquisitions, investments and dispositions (including travel and out-of-pocket costs), human resources costs (including relocation bonuses), litigation and arbitration costs, charges, fees and expenses (including settlements), management transition costs, advertising costs, losses associated with temporary decreases in work volume and expenses related to maintain underutilized personnel and non-recurring product and intellectual property development, other business optimization expenses or reserves (including costs and expenses relating to

business optimization programs and new systems design and costs or reserves associated with improvements to IT and accounting functions), retention charges (including charges or expenses in respect of incentive plans), system establishment costs and implementation costs, and operating expenses attributable to the implementation of strategic or cost-savings initiatives, and curtailments or modifications to pension and post-retirement employee benefit plans (including any settlement of pension liabilities and charges resulting from changes in estimates, valuations and judgments) and professional, legal, accounting, consulting and other service fees incurred with any of the foregoing (in each case, as applicable, whether or not consummated) and (b) any charge, expense, cost, accrual or reserve of any kind associated with acquisition related litigation and settlements thereof;

(5) (a) at the election of the Issuer with respect to any quarterly period, the cumulative effect (including charges, accruals, expenses and reserves) of a change in law, regulation or accounting principles and changes as a result of the adoption, implementation or modification of accounting policies, including the adoption, (b) subject to the last paragraph of the definition of "GAAP," the cumulative effect of a change in accounting principles and changes as a result of the adoption or modification of accounting policies during such period (including any impact resulting from an election by the Issuer to apply IFRS or other Accounting Changes) and (c) any costs, charges, losses, fees or expenses in connection with the implementation or tracking of such changes or modifications specified in the foregoing clauses (a) and (b), in each case as reasonably determined by the Issuer;

(6) (a) any equity-based or non-cash compensation or similar charge, cost or expense or reduction of revenue, including any such charge, cost, expense or reduction arising from any grant of stock, stock appreciation or similar rights, stock options, restricted stock, phantom equity, profits interests or other interests, or other rights or equity- or equity-based incentive programs ("equity incentives"), any income (loss) associated with the equity incentives or other long-term incentive compensation plans (including under deferred compensation arrangements of the Issuer or any Parent Entity or any Subsidiary and any positive investment income with respect to funded deferred compensation account balances), roll-over, acceleration or payout of Capital Stock by employees, directors, officers, managers, contractors, consultants, advisors or business partners (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Issuer or any Parent Entity or any Subsidiary, and any cash awards granted to employees of the Issuer and its Subsidiaries in replacement for forfeited awards, (b) any non-cash losses attributable to deferred compensations plans or trusts or realized in such period in connection with adjustments to any employee benefit plan due to changes in estimates, actuarial assumptions, valuations, studies or judgments, (c) non-cash compensation expense resulting from the application of Accounting Standards Codification Topic 718, Compensation —Stock Compensation or Accounting Standards Codification Topics 505-50, Equity-Based Payments to Non-Employees (or any successor provision or other financial accounting standard having a similar result or effect), and (d) any net pension or post-employment benefit costs representing amortization of unrecognized prior service costs, actuarial losses, amortization of such amounts arising in prior periods, amortization of the unrecognized obligation (and loss or cost) existing at the date of initial application of Statement of Financial Accounting Standards No. 87, 106 and 112—Employee Benefits (or any successor provision or other financial accounting standard having a similar result or effect), and any other item of a similar nature;

(7) any income (loss) from the extinguishment, conversion or cancellation of Indebtedness, Hedging Obligations or other derivative instruments (including deferred financing costs written off, premiums paid or other expenses incurred);

(8) any unrealized or realized gains or losses in respect of any Hedging Obligations or any ineffectiveness recognized in earnings related to hedge transactions or the fair value of changes therein recognized in earnings for derivatives that do not qualify as hedge transactions;

(9) any fees, losses, costs, expenses or charges incurred during such period (including any transaction, retention bonus or similar payment), or any amortization thereof for such period, in connection with (a) any acquisition, recapitalization, Investment, Asset Disposition, disposition, issuance or repayment of Indebtedness (including such fees, expense or charges related to the offering, issuance and rating of the Notes, other securities and any Credit Facilities), issuance of Capital Stock, refinancing transaction or amendment or modification of any debt instrument (including any amendment or other modification of the Notes, other securities and any Credit Facilities), in each case, including the Transactions, any such transaction consummated prior to, on or after the Issue Date and any such transaction undertaken but not completed, and any charges or non-recurring merger costs incurred during such period as a result of any such transaction, in each case whether or not successful (including, for the avoidance of doubt, the effects of expensing all transaction-related expenses in accordance with Accounting Standards Codification Topic 805—Business Combinations (or any successor provision or other financial accounting standard having a similar result or effect) and (if applicable) any adjustments resulting from the application of Accounting Standards Codification Topic 460—Guarantees (or any successor provision or other financial accounting standard having a similar result or effect) or any related pronouncements) and (b) complying with the requirements under, or making elections permitted by, the documentation governing any Indebtedness;

(10) any unrealized or realized gain or loss resulting in such period from currency translation increases or decreases or transaction gains or losses, including those related to currency remeasurements of Indebtedness (including any net loss or gain resulting from Hedging Obligations for currency risk), intercompany loans, accounts receivables, accounts payable, intercompany balances, other balance sheet items, Hedging Obligations or other obligations of the Issuer or any Restricted Subsidiary owing to the Issuer or any Restricted Subsidiary and any other realized or unrealized foreign exchange gains or losses relating to the translation of assets and liabilities denominated in foreign currencies;

(11) any unrealized or realized income (loss) or non-cash expense attributable to movement in mark-to-market valuation of foreign currencies, Indebtedness or derivative instruments pursuant to GAAP;

(12) effects of adjustments (including the effects of such adjustments pushed down to such Person and its Restricted Subsidiaries) in such Person's consolidated financial statements pursuant to GAAP (including, if applicable, those required or permitted by Accounting Standards Codification Topic 805—Business Combinations and (if applicable) Accounting Standards Codification Topic 350—Intangibles-Goodwill and Other (or any successor provision or other financial accounting standard having a similar result or effect) and related pronouncements), including in the inventory (including any impact of changes to inventory valuation policy methods, including changes in capitalization of variances), property and equipment, software, loans, leases, goodwill, intangible assets, in-process research and development, deferred revenue (including deferred costs related thereto and deferred rent) and debt line items thereof, resulting from the application of acquisition method accounting, recapitalization accounting or purchase accounting, as applicable, in relation to the Transactions or any consummated acquisition (by merger, consolidation, amalgamation or otherwise), joint venture investment or other Investment or the amortization or write-off or write-down of any amounts thereof;

(13) any impairment charge, write-off or write-down, including impairment charges, write-offs or write-downs related to intangible assets, long-lived assets, goodwill, investments in debt or equity securities (including any losses with respect to the foregoing in bankruptcy, insolvency or similar proceedings) and investments recorded using the equity method or as a result of a change in law or regulation, in connection with any disposition of assets and the amortization of intangibles arising pursuant to GAAP;

(14) (a) accruals and reserves (including contingent liabilities) that are established or adjusted in connection with the Transactions or within 24 months after the closing of any acquisition or disposition that are so required to be established or adjusted as a result of such acquisition or disposition in accordance with GAAP, or changes as a result of adoption or modification of accounting policies, and (b) earn-out, non-compete and contingent consideration obligations (including to the extent accounted for as bonuses, compensation or otherwise (and including deferred performance incentives in connection with any acquisition (by merger, consolidation, amalgamation or otherwise), joint venture investment or other Investment whether or not a service component is required from the transferor or its related party)) and adjustments thereof and purchase price adjustments, including any mark-to-mark adjustments;

(15) any income (loss) related to any realized or unrealized gains and losses resulting from Hedging Obligations or embedded derivatives that require similar accounting treatment (including embedded derivatives in customer contracts), and the application of Accounting Standards Codification Topic 815—Derivatives and Hedging (or any successor provision or other financial accounting standard having a similar result or effect) and its related pronouncements or mark to market movement of non-U.S. currencies, Indebtedness, derivatives instruments or other financial instruments pursuant to GAAP, including (if applicable) Accounting Standards Codification Topic 825—Financial Instruments (or any successor provision or other financial accounting standard having a similar result or effect) or an alternative basis of accounting applied in lieu of GAAP;

(16) any non-cash expenses, accruals or reserves related to adjustments to historical tax exposures and any deferred tax expense associated with tax deductions or net operating losses arising as a result of the Transactions, or the release of any valuation allowances related to such item;

(17) the amount of (x) Board of Directors (or equivalent thereof) fees, management, monitoring, consulting, refinancing, transaction, advisory and other fees (including exit and termination fees) and indemnities, costs and expenses paid or accrued in such period to any member of the Board of Directors (or the equivalent thereof) of the Issuer, any of its Subsidiaries or any Parent Entity, and (y) payments made to option holders of the Issuer or any Parent Entity in connection with, or as a result of, any distribution being made to equityholders of such Person or its Parent Entity, which payments are being made to compensate such option holders as though they were equityholders at the time of, and entitled to share in, such distribution, including any cash consideration for any repurchase of equity;

(18) the amount of loss or discount on sale of Securitization Assets, Receivables Assets and related assets in connection with a Qualified Securitization Financing or Receivables Facility;

(19) (i) at the election of the Issuer, payments to third parties in respect of research and development, including amounts paid upon signing, success, completion and other milestones and other progress payments, to the extent expensed and

(ii) at the election of the Issuer with respect to any quarterly period, effects of adjustments to accruals and reserves during a period relating to any change in the methodology of calculating reserves for returns, rebates and other chargebacks (including government program rebates);

(20) (i) the non-cash portion of "straight-line" rent expense will be excluded and (ii) the cash portion of "straight-line" rent expense that exceeds the amount expensed in respect of such rent expense will be included; and

(21) non-cash charges relating to increases or decreases of deferred tax asset valuation allowances.

In addition, to the extent not already excluded (or included, as applicable) from the Consolidated Net Income of such Person and its Restricted Subsidiaries, notwithstanding anything to the contrary in the foregoing, Consolidated Net Income shall be increased by the amount of: (i) any expenses, charges or losses that are reimbursed by indemnification or other reimbursement provisions in connection with any investment or any sale, conveyance, transfer or other disposition of assets permitted hereunder, or, so long as the Issuer has made a determination that there exists reasonable evidence that such amount will in fact be reimbursed within 365 days of the date of such evidence (net of any amount so added back in a prior period to the extent not so reimbursed within the applicable 365-day period) and (ii) to the extent covered by insurance (including business interruption insurance) and actually reimbursed, or, so long as the Issuer has made a determination that there exists reasonable evidence that such amount will in fact be reimbursed by the insurer and only to the extent that such amount is in fact reimbursed within 365 days of the date of such evidence (net of any amount so added back in a prior period to the extent not so reimbursed within the applicable 365-day period), expenses, charges or losses (including lost profits) with respect to liability or Casualty Events or business interruption. Consolidated Net Income shall be reduced by the amount of distributions for or payments of Permitted Tax Amounts actually made to any Parent Entity of such Person in respect of such period in accordance with Section 3.03(b)(9)(i) as though such amounts had been paid as Taxes directly by such Person for such periods.

"Consolidated Secured Net Leverage Ratio" means, as of any date of determination, the ratio of (a) Consolidated Total Indebtedness of the Issuer and its Restricted Subsidiaries which are Guarantors secured by a Lien on the Collateral as of such date to (b) LTM EBITDA. For the avoidance of doubt, Consolidated Total Indebtedness secured by a Lien shall not include Capitalized Lease Obligations or Purchase Money Obligations.

"Consolidated Total Indebtedness" means, as of any date of determination, an amount equal to:

(a) the aggregate principal amount of outstanding Indebtedness for borrowed money (excluding (i) Indebtedness with respect to obligations in respect of Cash Management Obligations, intercompany Indebtedness, Subordinated Indebtedness, Disqualified Stock and Preferred Stock of Restricted Subsidiaries and (ii) Indebtedness outstanding under the Credit Agreement that was used to finance working capital needs of the Issuer and its Restricted Subsidiaries (as reasonably determined by the Issuer) as of such date; *provided* that the aggregate principal amount of Indebtedness that may be excluded pursuant to this clause (ii) shall not exceed $50.0 million), *plus*

(b) the aggregate principal amount of Capitalized Lease Obligations, Purchase Money Obligations and unreimbursed drawings under letters of credit of the Issuer and its Restricted Subsidiaries outstanding on such date (*provided* that any unreimbursed amount under commercial letters of credit shall not be counted as Consolidated Total Indebtedness until five Business Days after such amount is drawn), *minus*

(c) the aggregate amount of Unrestricted Cash and Cash Equivalents (*provided* that the cash proceeds of any proposed incurrence of Indebtedness shall not be included in this clause (c) for purposes of calculating the Consolidated First Lien Net Leverage Ratio, the Consolidated Secured Net Leverage Ratio or the Consolidated Total Net Leverage Ratio, as applicable),

in each case, with such pro forma adjustments as are consistent with the pro forma adjustments set forth in the definition of "Pro Forma Basis."

For the avoidance of doubt, Consolidated Total Indebtedness shall exclude Indebtedness in respect of any Receivables Facility or Securitization Facility.

"Consolidated Total Net Leverage Ratio" means, as of any date of determination, the ratio of (a) Consolidated Total Indebtedness of the Issuer and its Restricted Subsidiaries as of such date to (b) LTM EBITDA.

"Contingent Obligations" means, with respect to any Person, any obligation of such Person guaranteeing in any manner, whether directly or indirectly, any Non-Financing Lease Obligation, dividend or other obligation that does not constitute Indebtedness ("primary obligations") of any other Person (the "primary obligor"), 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 the 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.

"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.

"Controlled Investment Affiliate" means, as to any Person, any other Person, which directly or indirectly is in control of, is controlled by, or is under common control with such Person and is organized by such Person (or any Person controlling such Person) primarily for making direct or indirect equity or debt investments in the Issuer and/or other companies.

"Credit Agreement" means the Credit Agreement, to be dated on or prior to the Spin-Off Date (the date of such effectiveness and initial funding thereunder, the "Credit Agreement Effective Date"), to be entered into by and among the Issuer, as the borrower, the other borrowers from time to time party thereto, the guarantors from time to time party thereto, Morgan Stanley Senior Funding, Inc., as administrative agent and collateral agent, and each lender from time to time party thereto, together with the related documents thereto (including the revolving loans thereunder, any letters of credit and reimbursement obligations related thereto, any Guarantees and security documents), as amended, extended, renewed, restated, refunded, replaced, refinanced, supplemented, modified or otherwise changed (in whole or in part, and without limitation as to amount, terms, conditions, covenants and other provisions) from time to time, and any one or more agreements (and related documents) governing Indebtedness, including indentures, incurred to refinance, substitute, supplement, replace or add to (including increasing the amount available for borrowing or adding or removing any Person as a borrower, issuer or guarantor thereunder, in whole or in part), the borrowings and commitments then outstanding or permitted to be outstanding under the applicable Credit Agreement or one or more successors to such Credit Agreement or one or more new credit agreements.

"Credit Agreement Administrative Agent" means Morgan Stanley Senior Funding, Inc., acting through such of its Affiliates or branches as it may designate, in its capacity as administrative agent under the Credit Agreement, or any successor administrative agent permitted by the terms hereof.

"Credit Agreement Collateral Agent" means Morgan Stanley Senior Funding, Inc., in its capacity as administrative agent and collateral agent under the Credit Agreement, together with its successors and permitted assigns in such capacities.

"Credit Facility" means, with respect to the Issuer or any of its Subsidiaries, one or more debt facilities, indentures or other arrangements (including the Credit Agreement or commercial paper facilities and overdraft facilities) with banks, other financial institutions or investors providing for revolving credit loans, term loans, notes, receivables financing (including through the sale of receivables to such institutions or to special purpose entities formed to borrow from such institutions against such receivables), letters of credit or other Indebtedness, in each case, as amended, restated, modified, renewed, refunded, replaced, restructured, refinanced, repaid, increased or extended in whole or in part from time to time (and whether in whole or in part and whether or not with the original administrative agent and lenders or another administrative agent or agents or other banks or institutions and whether provided under the original Credit Agreement or one or more other credit or other agreements, indentures, financing agreements or otherwise) and in each case including all agreements, instruments and documents executed and delivered pursuant to or in connection with the foregoing (including any notes and letters of credit issued pursuant thereto and any Guarantee and collateral agreement, patent and trademark security agreement, mortgages or letter of credit applications and other Guarantees, pledges, agreements, security agreements and collateral documents). Without limiting the generality of the foregoing, the term "Credit Facility" shall include any agreement or instrument (1) changing the maturity of any Indebtedness incurred thereunder or contemplated thereby, (2) adding Subsidiaries of the Issuer as additional borrowers or guarantors thereunder, (3) increasing the amount of Indebtedness incurred thereunder or available to be borrowed thereunder or (4) otherwise altering the terms and conditions thereof.

"Custodian" means any receiver, trustee, assignee, liquidator, custodian or similar official under any Bankruptcy Law.

"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.

"Definitive Notes" means certificated Notes.

"Depositary" means, with respect to the Notes issuable or issued in whole or in part in global form, the Person specified in Section 2.03 hereof as the Depositary with respect to the Notes, and any and all successors thereto appointed as depositary hereunder and having become such pursuant to the applicable provisions of this Indenture.

"Derivative Instrument" with respect to a Person, means any contract, instrument or other right to receive payment or delivery of cash or other assets to which such Person or any Affiliate of such Person that is acting in concert with such Person in connection with such Person's investment in the Notes (other than a Screened Affiliate) is a party (whether or not requiring further performance by such Person), the value and/or cash flows of which (or any material portion thereof) are materially affected by the value and/or performance of the Notes and/or the creditworthiness of the Issuer and/or any one or more of the Guarantors (the "Performance References").

"Designated Non-Cash Consideration" means the fair market value (as determined in good faith by the Issuer) of non-cash consideration received by the Issuer or any of its Restricted Subsidiaries in connection with an Asset Disposition as designated by the Issuer, which designation may be made at or after the time of the applicable Asset Disposition, less the amount of cash or Cash Equivalents received in connection with a subsequent payment, redemption, retirement, sale or other disposition of such Designated Non-Cash Consideration. A particular item of Designated Non-Cash Consideration will no longer be considered to be outstanding when and to the extent it has been paid, redeemed or otherwise retired or sold or otherwise disposed of in compliance with Section 3.05 hereof.

"Designated Preferred Stock" means Preferred Stock of the Issuer or a Parent Entity (other than Disqualified Stock) that is issued for cash (other than to the Issuer or a Subsidiary of the Issuer or an employee stock ownership plan or trust established by the Issuer or any such Subsidiary for the benefit of its employees to the extent funded by the Issuer or such Subsidiary) and that is designated as "Designated Preferred Stock" pursuant to an Officer's Certificate of the Issuer at or prior to the issuance thereof, the net cash proceeds of which are excluded from the calculation set forth in clause (C) of the Available Amount Builder Basket.

"Disinterested Director" means, with respect to any Affiliate Transaction, a member of the Board of Directors having no material direct or indirect financial interest in or with respect to such Affiliate Transaction. A member of the Board of Directors shall be deemed not to have such a financial interest by reason of such member's holding Capital Stock of the Issuer or any Parent Entity or any options, warrants or other rights in respect of such Capital Stock.

"Disposed EBITDA" means, with respect to any Sold Entity or Business or any Converted Unrestricted Subsidiary for any period, the amount for such period of Consolidated EBITDA of such Sold Entity or Business or such Converted Unrestricted Subsidiary, all as determined on a consolidated basis for such Sold Entity or Business or such Converted Unrestricted Subsidiary.

"Disqualified Stock" means, with respect to any Person, any Capital Stock of such Person which by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable) or upon the happening of any event:

(1) matures or is mandatorily redeemable for cash or in exchange for Indebtedness pursuant to a sinking fund obligation or otherwise; or

(2) is or may become (in accordance with its terms) upon the occurrence of certain events or otherwise redeemable or repurchasable for cash or in exchange for Indebtedness at the option of the holder of the Capital Stock in whole or in part,

in each case on or prior to the earlier of (a) the Stated Maturity of the Notes or (b) the date on which there are no Notes outstanding; *provided*, *however*, that (i) only the portion of Capital Stock which 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 will be deemed to be Disqualified Stock and (ii) any Capital Stock that would constitute Disqualified Stock solely because the holders thereof have the right to require the issuer thereof to repurchase such Capital Stock upon the occurrence of a change of control or asset sale (howsoever defined or referred to) shall not constitute Disqualified Stock if any such redemption or repurchase obligation is subject to compliance by the relevant Person with Section 3.03 hereof; *provided*, *further*, that if such Capital Stock is issued to any future, current or former employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Issuer, any of its Subsidiaries, any Parent Entity or any other entity in which the Issuer or a Restricted Subsidiary has an Investment and is designated in good faith as an "affiliate" by the Board of Directors (or the compensation committee thereof) or any other plan for the benefit of current, former or future employees (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Issuer or its Subsidiaries or by any such plan to such employees (or their respective Controlled Investment Affiliates or Immediate Family Members), such Capital Stock shall not constitute Disqualified Stock solely because it may be required to be repurchased by the Issuer or its Subsidiaries in order to satisfy applicable statutory or regulatory obligations.

"Divided LLC" means a limited liability company which has been formed upon the consummation of an LLC Division.

"Dollars" or "$" means the lawful currency of the United States of America.

"DTC" means The Depository Trust Company or any successor securities clearing agency.

"Equity Interests" means Capital Stock and all warrants, options or other rights to acquire Capital Stock (but excluding (x) any Capital Stock that arises only by reason of the happening of a contingency that is outside the control of the holder of such Capital Stock or any debt security that is convertible into, or exchangeable for, Capital Stock and (y) Permitted Call Spread Swap Agreements).

"Equity Offering" means (x) a sale of Capital Stock (other than through the issuance of Disqualified Stock or Designated Preferred Stock or through an Excluded Contribution) other than (a) offerings registered on Form S-8 (or any successor form) under the Securities Act or any similar offering in other jurisdictions or other securities of the Issuer or any Parent Entity and (b) issuances of Capital Stock to any Subsidiary of the Issuer or (y) a cash equity contribution to the Issuer.

"Euro" and "€" means the single currency of participating member states of the economic and monetary union as contemplated in the Treaty on European Union.

"Exchange Act" means the Securities Exchange Act of 1934, as amended, and the rules and regulations of the SEC promulgated thereunder, as amended.

"Excluded Accounts" means, any account that is used solely as:

(1) payroll, healthcare and other employee wage and benefit accounts,

(2) tax accounts, including, without limitation, sales, use, payroll, and withholding tax accounts,

(3) escrow, defeasance and redemption accounts, in each case, maintained for the benefit of a Person that is not the Issuer or a Subsidiary Guarantor,

(4) fiduciary or trust accounts, in each case, maintained for the benefit of a Person that is not the Issuer or a Subsidiary Guarantor,

(5) cash collateral accounts subject to Permitted Liens solely to secure reimbursement obligations in respect of letters of credit (other than letters of credit issued pursuant to the Credit Agreement), and

(6) the funds or other property held in or maintained for such purposes in any such account described in clauses (1) through (5).

"Excluded Contribution" means net cash proceeds or property or assets received by the Issuer as capital contributions to the equity (other than through the issuance of Disqualified Stock or Designated Preferred Stock) of the Issuer after the Issue Date or from the issuance or sale (other than to a Restricted Subsidiary or an employee stock ownership plan or trust established by the Issuer or any Subsidiary of the Issuer for the benefit of their employees to the extent funded by the Issuer or any Restricted Subsidiary) of Capital Stock (other than Disqualified Stock or Designated Preferred Stock) of the Issuer.

"Excluded Property" means:

(a) any fee-owned real property and/or any real property leasehold or subleasehold interests,

(b) motor vehicles and other assets or goods subject to certificates of title to the extent a Lien thereon cannot be perfected by filing a UCC financing statement,

(c) goods, chattel paper, investment property, documents of title, instruments, money, intangibles and other assets to the extent a security interest in such goods, chattel paper, investment property, documents of title, instruments, money, intangibles and other assets would result in adverse tax consequences to the Issuer or the Restricted Group or any of their direct or indirect equity owners (including, without limitation, as a result of any law or regulation in any applicable jurisdiction similar to Section 956 of the Code), or material adverse regulatory or accounting consequences, in each case, as reasonably determined by the Issuer,

(d) any goods, chattel paper, investment property, documents of title, instruments, money, intangibles and other assets, in each case, of or in which pledges or security interests in favor of the Notes Collateral Agent are prohibited by applicable Law (including any requirement to obtain the consent of any Governmental Authority or third person under such applicable Law, unless such consent has been obtained) or by any contract binding on such assets at the time of its acquisition and not entered into in contemplation thereof, in each case, as reasonably determined by the Issuer; *provided* that (i) any such limitation described in this clause (d) on the security interests granted under the Notes Security Documents shall only apply to the extent that any such prohibition could not be rendered ineffective pursuant to the UCC or any other applicable Law or principles of equity and shall not apply to any proceeds or receivables thereof, the assignment of which is expressly deemed effective under the UCC or other applicable Law (respectively) notwithstanding such prohibition and (ii) in the event of the termination or elimination of any such prohibition contained in any applicable Law, a security interest in such goods, chattel paper, investment property, documents of title, instruments, money, intangibles and other assets shall be automatically and simultaneously granted under the applicable Notes Security Documents and shall be included as Collateral,

(e) any governmental licenses or state or local franchises, charters and authorizations (but not the proceeds thereof), to the extent security interests in favor of the Notes Collateral Agent in such licenses, franchises, charters or authorizations are prohibited or restricted thereby; provided that (i) any such limitation described in this clause (e) on the security interests granted shall only apply to the extent that any such prohibition or restriction could not be rendered ineffective pursuant to the Uniform Commercial Code of any applicable jurisdiction or any other applicable Law or principles of equity and shall not apply to any proceeds or receivables thereof, the assignment of which is expressly deemed effective under the UCC or other applicable Law (respectively) notwithstanding such prohibition 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 Notes Security Documents and such licenses, franchises, charters or authorizations shall be included as Collateral,

(f) Equity Interests in (A) any Person (other than the Issuer and Wholly Owned Restricted Subsidiaries of the Issuer) to the extent and for so long as the pledge thereof in favor of the Notes Collateral Agent is not permitted by the terms of such Person's joint venture agreement or other applicable organizational documents; *provided* that such prohibition exists on the Spin-Off Date or at the time such Equity Interests are acquired (so long as such prohibition did not arise in contemplation of the Spin-Off Date or such acquisition), (B) any not-for-profit Subsidiary, (C) any Captive Insurance Subsidiary, (D) any special purpose securitization vehicle (or similar entity), (E) any Unrestricted Subsidiary, (F) any Person which is acquired after the Spin-Off Date to the extent and for so long as such Equity Interests are pledged in respect of Acquired Indebtedness permitted under this Indenture and such pledge constitutes a Permitted Lien and (G) (except to the extent perfected through the filing of a UCC financing statement) any Immaterial Subsidiary,

(g) any lease, license or other agreement or any goods or other property subject to a purchase money security interest, Capitalized Lease Obligation or similar arrangement, in each case, permitted under this Indenture, to the extent that a grant of a security interest therein would violate or invalidate such lease, license, capital lease or agreement or purchase money arrangement or create a right of termination in favor of any other party thereto (other than the Issuer, the Subsidiary Guarantors or their respective 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 Uniform Commercial Code of any applicable jurisdiction, other than proceeds and receivables thereof, the assignment of which is expressly deemed effective under the Uniform Commercial Code of any applicable jurisdiction notwithstanding such prohibition,

(h) "intent-to-use" trademark applications prior to the filing of a "Statement of Use" or "Amendment to Allege Use,"

(i) any goods or assets sold pursuant to a Qualified Securitization Financing or Receivables Facility or other factoring or receivables arrangement permitted by this Indenture,

(j) Margin Stock,

(k) cash pledged solely to secure letter of credit reimbursement obligations to the extent such letters of credit and such pledge are permitted by this Indenture,

(l) Excluded Accounts,

(m) (A) Voting Stock in excess of 65.0% of the total combined voting power of all Voting Stock of any CFC, of any Non-U.S. Subsidiary or of any FSHCO, (B) any Equity Interests of any Subsidiary not directly owned by the Issuer or a Subsidiary Guarantor and (C) the Equity Interests in any Immaterial Subsidiary (except to the extent perfected through the filing of a UCC financing statement), and

(n) so long as the Credit Agreement is outstanding, any asset that is not pledged to secure Obligations arising in respect of the Credit Agreement (whether pursuant to the terms thereof, or as a result of any determination made thereunder, or by amendment, waiver or otherwise).

Other goods, chattel paper, investment property, documents of title, instruments, money, intangibles and other assets shall be deemed to be "Excluded Property" if, in the Issuer's reasonable judgment, as notified to the Trustee in writing, the cost or other consequences of obtaining or perfecting a security interest in such goods, chattel paper, investment property, documents of title, instruments, money, intangibles or other assets is excessive in relation to either the value of such goods, chattel paper, investment property, documents of title, instruments, money, intangibles and other assets as Collateral or to the benefit of the Holders of the Notes of the security afforded thereby. Notwithstanding anything herein or the Notes Security 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 any direct or indirect Subsidiary of the Issuer that is:

(a) an Unrestricted Subsidiary,

(b) not a Wholly Owned Restricted Subsidiary of the Issuer (other than a Subsidiary that was a Wholly Owned Restricted Subsidiary and that ceases to be a Wholly Owned Restricted Subsidiary as a result of (x) a transaction that is not bona fide or (y) the sale of its Equity Interests with sole intention to release such Subsidiary from its Guarantee of the Obligations),

(c) an Immaterial Subsidiary,

(d) a FSHCO or a CFC (or any direct or indirect Subsidiary of a Subsidiary that is a FSHCO or CFC),

(e) [reserved],

(f) a Non-U.S. Subsidiary or any direct or indirect Subsidiary of a Non-U.S. Subsidiary,

(g) prohibited or restricted by applicable Law from guaranteeing the Notes, 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) prohibited or restricted from guaranteeing the Notes by any Contractual Obligation in existence on the Spin-Off 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 Notes would result in an adverse tax consequence to the Issuer or the Restricted Group or any of their Subsidiaries or direct or indirect equity owners (including, without limitation, as a result of any law or regulation in any applicable jurisdiction similar to Section 956 of the Code), or material adverse regulatory consequences, in each case, as reasonably determined by the Issuer,

(j) [reserved],

(k) a not-for-profit subsidiary,

(l) an employee benefit trust or similar construct or a trust company,

(m) a special purpose entity,

(n) a Captive Insurance Subsidiary, or

(o) in the reasonable judgment of the Issuer, a Subsidiary as to which the cost or other consequences of guaranteeing the Obligations in respect of the Notes would be excessive in view of the benefits to be obtained by the Holders therefrom, which such designation shall be evidenced to the Trustee by delivering to the Trustee an Officer's Certificate certifying that such Subsidiary has been so designated.

Notwithstanding the foregoing, no Subsidiary of the Issuer that is a guarantor in respect of the Issuer's Obligations in respect of Indebtedness for borrowed money of the Issuer under the Credit Agreement shall be deemed to be an Excluded Subsidiary.

"Existing Notes" means the Issuer's 5.000% Senior Notes due 2030, issued pursuant to the Existing Notes Indenture.

"Existing Notes Collateral Agent" means U.S. Bank Trust Company, National Association in its capacity as notes collateral agent under the Existing Notes Indenture, together with its successors and permitted assigns in such capacities.

"Existing Notes Indenture" means the Indenture, dated as of February 10, 2022, by and between the Issuer and U.S. Bank Trust Company, National Association, as trustee and notes collateral agent, as amended, extended, renewed, restated, refunded, replaced, refinanced, supplemented, modified or otherwise changed (in whole or in part, and without limitation as to amount, terms, conditions, covenants and other provisions) from time to time.

"Existing Notes Trustee" means U.S. Bank Trust Company, National Association in its capacity as trustee under the Existing Notes Indenture, together with its successors and permitted assigns in such capacities.

"fair market value" means, with respect to any asset or property, the price which could be negotiated in an arm's-length transaction, for cash, between a willing seller and a willing and able buyer; for purposes of this Indenture, fair market value may be conclusively established by means of an Officer's Certificate or resolutions of the Board of Directors setting out such fair market value as determined by such Officer or such Board of Directors in good faith.

"First Lien Obligations" means, collectively, (i) the Credit Agreement Obligations (as defined in the First Lien Pari Passu Intercreditor Agreement) and (ii) each Series of Other First Lien Obligations (each as defined in the First Lien Pari Passu Intercreditor Agreement) permitted to be incurred under this Indenture.

"First Lien Pari Passu Intercreditor Agreement" means that certain intercreditor agreement, to be entered into on the Spin-Off Date by and among the Trustee, the Notes Collateral Agent, the Existing Notes Trustee, the Existing Notes Collateral Agent, the Credit Agreement Administrative Agent and the Credit Agreement Collateral Agent (as amended, restated, amended and restated, supplemented or otherwise modified or replaced from time to time).

"Fitch" means Fitch Ratings, Inc. or any of its successors or assigns that is a Nationally Recognized Statistical Rating Organization.

"Fixed Charge Coverage Ratio" means, with respect to any Person on any determination date, the ratio of Consolidated EBITDA of such Person for the most recent four consecutive fiscal quarters ending immediately prior to such determination date (the "reference period") for which consolidated financial statements are available (which may be internal consolidated financial statements) to the Fixed Charges of such Person for the reference period. In the event that the Issuer or any Restricted Subsidiary incurs, assumes, guarantees, redeems, defeases, retires or extinguishes any Indebtedness (other than Indebtedness incurred under any revolving credit facility unless such Indebtedness has been permanently repaid and has not been replaced), has caused any Reserved Indebtedness Amount to be deemed to be incurred during such period or issues or redeems Disqualified Stock or Preferred Stock subsequent to the commencement of the reference period but prior to or simultaneously with the event for which the calculation of the Fixed Charge Coverage Ratio is made (the "Fixed Charge Coverage Ratio Calculation Date"), then the Fixed Charge Coverage Ratio shall be calculated giving pro forma effect to such incurrence, deemed incurrence, assumption, guarantee, redemption, defeasance, retirement or extinguishment of Indebtedness, or such issuance or redemption of Disqualified Stock or Preferred Stock, as if the same had occurred at the beginning of the applicable four-quarter period.

Notwithstanding anything to the contrary herein, in the event an item of Indebtedness (or any portion thereof) is incurred or issued, any Lien is incurred or other transaction is undertaken in reliance on any ratio based exceptions, thresholds and baskets, such ratio(s) shall be calculated with respect to such incurrence, issuance or other transaction without giving effect to amounts being utilized under any other exceptions, thresholds or baskets (other than ratio based baskets) on the same date. Each item of Indebtedness that is incurred or issued, each Lien incurred and each other transaction undertaken will be deemed to have been incurred, issued or taken first, to the extent available, pursuant to the relevant ratio based test.

Notwithstanding anything to the contrary herein, in the event an item of Indebtedness (or any portion thereof) is incurred or issued, any Lien is incurred or other transaction is undertaken in reliance on any ratio based exceptions, thresholds and baskets, such ratio(s) shall be calculated without regard to the incurrence of any Indebtedness under any revolving facility or letter of credit facility immediately prior to or in connection therewith.

Any calculation or measure that is determined with reference to the Issuer's financial statements (including Consolidated EBITDA, Consolidated Interest Expense, Consolidated Net Income, Fixed Charges, Fixed Charge Coverage Ratio, Consolidated First Lien Net Leverage Ratio, Consolidated Secured Net Leverage Ratio and Consolidated Total Net Leverage Ratio) may be determined with reference to the financial statements of a Parent Entity instead, so long as such Parent Entity does not hold any material assets other than, directly or indirectly, the Capital Stock of the Issuer.

For purposes of making the computation referred to above, the Issuer shall make pro forma adjustments as are consistent with the definition of "Pro Forma Basis" and "Fixed Charge Coverage Ratio".

"Fixed Charges" means, with respect to any Person for any period, the sum of (without duplication):

(1) Consolidated Interest Expense of such Person for such period;

(2) all cash dividends or other distributions paid (excluding items eliminated in consolidation) on any series of Preferred Stock of any Restricted Subsidiary of such Person during such period; and

(3) all cash dividends or other distributions paid (excluding items eliminated in consolidation) on any series of Disqualified Stock of such Person during such period.

"FSHCO" means any direct or indirect Subsidiary of the Issuer that owns no material assets (directly or indirectly) other than (i) Equity Interests (including, for this purpose, any debt or other instrument treated as equity for U.S. federal income tax purposes (as determined by the Issuer)) and (ii) indebtedness, in either case of clauses (i) and (ii), in one or more Subsidiaries that are Non-U.S. Subsidiaries, CFCs and/or one or more other FSHCOs.

"GAAP" means generally accepted accounting principles in the United States of America set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as have been approved by a significant segment of the accounting profession, which are in effect from time to time; *provided* that (a) all terms of an accounting or financial nature used in this Indenture shall be construed, and all computations of amounts and ratios referred to in this Indenture shall be made, without giving effect to any election under Accounting Standards Codification Topic 825—Financial Instruments (if applicable), or any successor thereto or comparable accounting principle (including pursuant to the Accounting Standards Codification), to value any Indebtedness of the Issuer or any Subsidiary at "fair value," as defined therein and (b) the amount of any Indebtedness under GAAP with respect to Capitalized Lease Obligations shall be determined in accordance with the definition of "Capitalized Lease Obligation." At any time after the Issue Date, the Issuer may elect to apply IFRS accounting principles in lieu of GAAP and, upon any such election, references herein to GAAP shall thereafter be construed to mean IFRS (except as otherwise provided in this Indenture); *provided* that any such election, once made, shall be irrevocable; *provided*, *further*, that any calculation or determination in this Indenture that requires the application of GAAP for periods that include fiscal quarters ended prior to the Issuer's election to apply IFRS shall remain as previously calculated or determined in accordance with GAAP. The Issuer shall give written notice of any such election made in accordance with this definition to the Trustee. For the avoidance of doubt, solely making an election (without any other action) referred to in this definition will not be treated as an incurrence of Indebtedness.

If there occurs a change in IFRS or GAAP, as applicable, and such change would cause a change in the method of calculation of any standards, terms or measures (including all computations of amounts and ratios) used in this Indenture (an "Accounting Change"), then the Issuer may elect that such standards, terms or measures shall be calculated as if such Accounting Change had or had not occurred.

All references to an accounting rule, regulation, standard, principal, term or measure, as applicable, in this Indenture (x) with respect to GAAP shall be deemed to refer to the equivalent rule, regulation, standard, principal, term or measure with respect to IFRS (if applicable) and (y) with respect to IFRS shall be deemed to refer to the equivalent rule, regulation, standard, principal, term or measure with respect to GAAP (if applicable).

"Governmental Authority" means any nation or government, any state, province, territory 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).

"Guarantee" means, any obligation, contingent or otherwise, of any Person directly or indirectly guaranteeing any Indebtedness of any other Person, including any such obligation, direct or indirect, contingent or otherwise, of such Person:

(1) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness of such other Person (whether arising by virtue of partnership arrangements, or by agreements to keep-well, to purchase assets, goods, securities or services, to take-or-pay or to maintain financial statement conditions or otherwise); or

(2) entered into primarily for purposes of assuring in any other manner the obligee of such Indebtedness of the payment thereof or to protect such obligee against loss in respect thereof (in whole or in part);

provided, however, that the term "Guarantee" will not include (x) endorsements for collection or deposit in the ordinary course of business or consistent with past practice and (y) standard contractual indemnities or product warranties provided in the ordinary course of business, and *provided*, *further*, that the amount of any Guarantee shall be deemed to be the lower of (i) an amount equal to the stated or determinable amount of the primary obligation in respect of which such Guarantee is made and (ii) the maximum amount for which such guaranteeing Person may be liable pursuant to the terms of the instrument embodying such Guarantee or, if such Guarantee is not an unconditional guarantee of the entire amount of the primary obligation and such maximum amount is not stated or determinable, the amount of such guaranteeing Person's maximum reasonably anticipated liability in respect thereof as determined by such Person in good faith. The term "Guarantee" used as a verb has a corresponding meaning.

"Guarantor" means (i) as of the Spin-Off Date, the Subsidiary Guarantors that execute and deliver the Supplemental Indenture, and (ii) on and after the Spin-Off Date, any other Restricted Subsidiary that Guarantees the Notes, in each case, until such Note Guarantee is released in accordance with the terms of this Indenture. For the avoidance of doubt, no Excluded Subsidiary shall be a Guarantor, except as provided under Section 3.07.

"Hedging Obligations" means, with respect to any Person, the obligations of such Person under any interest rate swap agreement, interest rate cap agreement, interest rate collar agreement, commodity swap agreement, commodity cap agreement, commodity collar agreement, foreign exchange contracts, currency swap agreement or similar agreement providing for the transfer or mitigation of interest rate, commodity price or currency risks either generally or under specific contingencies.

"Holder" means each Person in whose name the Notes are registered on the Registrar's books, which shall initially be the nominee of DTC.

"IAI" means an institutional "accredited investor" as described in Rule 501(a)(1), (2), (3) or (7) under the Securities Act.

"IFRS" means the international financial reporting standards as issued by the International Accounting Standards Board and adopted by the European Union as in effect from time to time.

"Immaterial Subsidiary" means, at any date of determination, each Restricted Subsidiary of the Issuer that (i) has not guaranteed any other Indebtedness of the Issuer and (ii) (A) has Total Assets and revenues of less than 5.0% of Total Assets and revenues of the Issuer and its Restricted Subsidiaries on a consolidated basis and (B) together with all other Immaterial Subsidiaries, has Total Assets and revenues of less than 10.0% of Total Assets and revenues of the Issuer and its Restricted Subsidiaries on a consolidated basis, in each case for clauses (A) and (B), measured at the end of the most recent fiscal period for which consolidated financial statements are available (which may, at the election of the Issuer, be internal financial statements) on a pro forma basis giving effect to any acquisitions or dispositions of companies, division or lines of business since such balance sheet date or the start of such four quarter period, as applicable, and on or prior to the date of acquisition of such Subsidiary.

"Immediate Family Members" means, with respect to any individual, such individual's child, stepchild, grandchild or more remote descendant, parent, stepparent, grandparent, spouse, former spouse, qualified domestic partner, sibling, mother-in-law, father-in-law, son-in-law and daughter-in-law (including adoptive relationships, the estate of such individual and such other individuals above) and any trust, partnership or other bona fide estate-planning vehicle the only beneficiaries of which are any of the foregoing individuals or any private foundation or fund that is controlled by any of the foregoing individuals or any donor-advised fund of which any such individual is the donor.

"Increased Amount" means, with respect to any Indebtedness, any increase in the amount of such Indebtedness in connection with any accrual of interest, the accretion of accreted value, the amortization of original issue discount, the payment of interest in the form of additional Indebtedness with the same terms, accretion of original issue discount or liquidation preference and increases in the amount of Indebtedness outstanding solely as a result of fluctuations in the exchange rate of currencies or increases in the value of property securing Indebtedness.

"incur" means to issue, create, assume, enter into any Guarantee of, incur, extend or otherwise become liable for; *provided*, *however*, that any Indebtedness or Capital Stock of a Person existing at the time such Person becomes a Restricted Subsidiary (whether by merger, amalgamation, consolidation, acquisition or otherwise) will be deemed to be incurred by such Restricted Subsidiary at the time it becomes a Restricted Subsidiary and the terms "incurred" and "incurrence" have meanings correlative to the foregoing and any Indebtedness pursuant to any revolving credit or similar facility shall only be "incurred" at the time any funds are borrowed thereunder.

"Indebtedness" means, with respect to any Person on any date of determination (without duplication):

(1) the principal of indebtedness of such Person for borrowed money;

(2) the principal of obligations of such Person evidenced by bonds, debentures, notes or other similar instruments;

(3) all reimbursement obligations of such Person in respect of letters of credit, bankers' acceptances or other similar instruments (the amount of such obligations being equal at any time to the aggregate then undrawn and unexpired amount of such letters of credit or other instruments plus the aggregate amount of drawings thereunder that have not been reimbursed) (except to the extent such reimbursement obligations relate to trade payables and such obligations are satisfied within 30 days of incurrence);

(4) the principal component of all obligations of such Person to pay the deferred and unpaid purchase price of property (except trade payables or similar obligations, including accrued expenses owed, to a trade creditor), which purchase price is due more than one year after the date of placing such property in service or taking final delivery and title thereto;

(5) Capitalized Lease Obligations of such Person;

(6) the principal component of all obligations, or liquidation preference, of such Person with respect to any Disqualified Stock or, with respect to any Restricted Subsidiary, any Preferred Stock (but excluding, in each case, any accrued dividends);

(7) the principal component of all Indebtedness of other Persons secured by a Lien on any asset of 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 at such date of determination (as determined in good faith by the Issuer) and (b) the amount of such Indebtedness of such other Persons;

(8) Guarantees by such Person of the principal component of Indebtedness of the type referred to in clauses (1), (2), (3), (4), (5) and (9) of other Persons to the extent Guaranteed by such Person; and

(9) to the extent not otherwise included in this definition, net obligations of such Person under Hedging Obligations (the amount of any such obligations to be equal at any time to the net payments under such agreement or arrangement giving rise to such obligation that would be payable by such Person at the termination of such agreement or arrangement);

with respect to clauses (1), (2), (3), (4), (5) and (9) above, if and to the extent that any of the foregoing Indebtedness (other than letters of credit and Hedging Obligations) would appear as a liability upon a balance sheet (excluding the footnotes thereto) of such Person prepared in accordance with GAAP.

The amount of Indebtedness of any Person at any time in the case of a revolving credit or similar facility shall be the total amount of funds borrowed and then outstanding. The amount of any Indebtedness outstanding as of any date shall be (a) the accreted value thereof in the case of any Indebtedness issued with original issue discount and (b) the principal amount of Indebtedness, or liquidation preference thereof, in the case of any other Indebtedness. Indebtedness shall be calculated without giving effect to the effects of Accounting Standards Codification Topic 815—Derivatives and Hedging and related pronouncements to the extent such effects would otherwise increase or decrease an amount of Indebtedness for any purpose under this Indenture as a result of accounting for any embedded derivatives created by the terms of such Indebtedness.

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 practice, other than Guarantees or other assumptions of Indebtedness;

(ii) Cash Management Obligations;

(iii) any lease, concession or license of property (or Guarantee thereof) which would be considered an operating lease under GAAP as in effect on the Issue Date, Non-Financing Lease Obligations, Sale and Leaseback Transactions or any prepayments of deposits received from clients or customers in the ordinary course of business or consistent with past practice;

(iv) obligations under any license, permit or other approval (or Guarantees given in respect of such obligations) incurred prior to the Spin-Off Date or in the ordinary course of business or consistent with past practice;

(v) in connection with the purchase by the Issuer or any Restricted Subsidiary of any business, any deferred or prepaid revenue, post-closing payment adjustments to which the seller may become entitled to the extent such payment is determined by a final closing balance sheet or such payment depends on the performance of such business after the closing; *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;

(vi) for the avoidance of doubt, any obligations in respect of workers' compensation claims, early retirement or termination obligations, pension fund obligations or contributions or similar claims, obligations or contributions or social security or wage Taxes;

(vii) obligations under or in respect of Qualified Securitization Financings or Receivables Facilities;

(viii) Indebtedness of any Parent Entity appearing on the balance sheet of the Issuer solely by reason of push down accounting under GAAP;

(ix) Capital Stock (other than in the case of clause (6) above, Disqualified Stock); or

(x) amounts owed to dissenting stockholders (including in connection with, or as a result of, exercise of dissenters' or appraisal rights and the settlement of any claims or action (whether actual, contingent or potential)), pursuant to or in connection with a consolidation, amalgamation, merger or transfer of assets that complies with Section 4.01.

"Indenture" means this Indenture as amended or supplemented from time to time.

"Independent Financial Advisor" means an accounting, appraisal, investment banking firm or consultant to Persons engaged in Similar Businesses of nationally recognized standing; *provided*, *however*, that such firm or appraiser is not an Affiliate of the Issuer.

"Initial Notes" has the meaning ascribed to it in the recitals of this Indenture.

"Intercompany License Agreement" means any cost sharing agreement, commission or royalty agreement, license or sublicense agreement, distribution agreement, services agreement, intellectual property rights transfer agreement, any related agreements or similar agreements, in each case where all parties to such agreement are one or more of the Issuer or a Restricted Subsidiary.

"Intercompany Agreement" means that certain the intercompany agreement by and between BD and the Issuer, dated as of the Issue Date.

"Intercreditor Agreements" means (a) the First Lien Pari Passu Intercreditor Agreement and (b) the Junior Lien Intercreditor Agreement, if any.

"Investment" means, with respect to any Person, all investments by such Person in other Persons (including Affiliates) in the form of advances, loans or other extensions of credit (excluding (i) accounts receivable, trade credit, advances or extensions of credit to customers, suppliers, future, present or former employees, directors, officers, managers, contractors, consultants or advisors (or their respective Controlled Investment Affiliates or Immediate Family Members) of any Person in the ordinary course of business or consistent with past practice, (ii) any debt or extension of credit represented by a bank deposit other than a time deposit, (iii) intercompany advances arising from cash management, tax and accounting operations and (iv) intercompany loans, advances or Indebtedness having a term not exceeding 364 days (exclusive of any roll-over or extensions of terms)) or capital contribution to (by means of any transfer of cash or other property to others or any payment for property or services for the account or use of others), or the incurrence of a Guarantee of any obligation of, or any purchase or acquisition of Capital Stock, Indebtedness or other similar instruments issued by, such other Persons and all other items that are or would be classified as investments on a balance sheet prepared in accordance with GAAP; *provided*, *however*, that endorsements of negotiable instruments and documents in the ordinary course of business or consistent with past practice will not be deemed to be an Investment.

For purposes of Section 3.03 and Section 3.20 hereof:

(1) "Investment" will include the portion (proportionate to the Issuer's equity interest in such Restricted Subsidiary to be designated as an Unrestricted Subsidiary) of the fair market value of the net assets of such Restricted Subsidiary at the time that such Restricted Subsidiary is designated an Unrestricted Subsidiary; *provided*, *however*, that upon a redesignation of such Subsidiary as a Restricted Subsidiary, the Issuer will be deemed to continue to have a permanent "Investment" in an Unrestricted Subsidiary in an amount (if positive) equal to (a) the Issuer's "Investment" in such Subsidiary at the time of such redesignation less (b) the portion (proportionate to the Issuer's equity interest in such Subsidiary) of the fair market value of the net assets (as determined by the Issuer) of such Subsidiary at the time that such Subsidiary is so re-designated a Restricted Subsidiary;

(2) any property transferred to or from an Unrestricted Subsidiary will be valued at its fair market value at the time of such transfer, in each case as determined by the Issuer; and

(3) if the Issuer or any Restricted Subsidiary issues, sells or otherwise disposes of Capital Stock of a Person that is a Restricted Subsidiary such that, after giving effect thereto, such Person is no longer a Restricted Subsidiary, any investment by the Issuer or any Restricted Subsidiary in such Person remaining after giving effect thereto shall not be deemed to be an Investment at such time.

The amount of any Investment outstanding at any time shall be the original cost of such Investment, reduced by any dividend, distribution, interest payment, return of capital, repayment or other amount received in cash and Cash Equivalents by the Issuer or a Restricted Subsidiary in respect of such Investment to the extent such amounts do not increase any other baskets under this Indenture.

"Investment Grade Securities" means:

(1) securities issued or directly and fully Guaranteed or insured by the United States government or any agency or instrumentality thereof (other than Cash Equivalents);

(2) securities issued or directly and fully guaranteed or insured by the Canadian, United Kingdom or Japanese governments, a member state of the European Union, or any agency or instrumentality thereof (other than Cash Equivalents);

(3) debt securities or debt instruments with a rating of "BBB-" or higher from S&P or "Baa3" or higher by Moody's or the equivalent of such rating by such rating organization or, if no rating of Moody's or S&P then exists, the equivalent of such rating by any other Nationally Recognized Statistical Ratings Organization, but excluding any debt securities or instruments constituting loans or advances among the Issuer and its Subsidiaries;

(4) investments in any fund that invests exclusively in investments of the type described in clauses (1), (2) and (3) above which fund may also hold cash and Cash Equivalents pending investment or distribution; and

(5) corresponding instruments in countries other than the United States customarily utilized for high quality investments.

"Investment Grade Status" shall occur when the Notes receive two of the following:

(1) a rating of "BBB-" or higher from S&P;

(2) a rating of "Baa3" or higher from Moody's; or

(3) a rating of "BBB-" or higher from Fitch;

or the equivalent of such rating by such rating organization or, if no rating of S&P, Moody's or Fitch then exists, the equivalent of such rating by any other Nationally Recognized Statistical Ratings Organization.

"Issue Date" means March 31, 2022.

"Issuer" means Embecta Corp., a Delaware corporation, and its successors.

"joint venture" means any joint venture or similar arrangement (in each case, regardless of legal formation), including collaboration arrangements, profit sharing arrangements or other contractual arrangements.

"Junior Lien Priority Indebtedness" means Indebtedness or obligations of the Issuer and/or the Guarantors that is secured by Liens on the Collateral ranking on a junior basis to the Liens securing the Notes.

"Law" means, collectively, all applicable international, foreign, federal, state, provincial 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.

"Lien" means any mortgage, pledge, security interest, encumbrance, lien, hypothecation or charge of any kind (including any conditional sale or other title retention agreement or lease in the nature thereof); *provided* that in no event shall Non-Financing Lease Obligations be deemed to constitute a Lien.

"Limited Condition Transaction" means (1) any Investment or acquisition (whether by merger, amalgamation, consolidation or other business combination or the acquisition of Capital Stock or otherwise and which may include, for the avoidance of doubt, a transaction that may constitute a Change of Control) in or of any assets, business or Person, (2) any redemption, repurchase, defeasance, satisfaction and discharge or repayment of Indebtedness, Disqualified Stock or Preferred Stock requiring irrevocable notice in advance of such redemption, repurchase, defeasance, satisfaction and discharge or repayment, (3) any Restricted Payment requiring irrevocable notice in advance thereof, (4) any asset sale or a disposition and (5) a "Change of Control."

"LLC Conversion" means the conversion of any Restricted Subsidiary of the Issuer that is a U.S. Subsidiary from a corporation into a limited liability company.

"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 Law.

"Long Derivative Instrument" means a Derivative Instrument (i) the value of which generally increases, and/or the payment or delivery obligations under which generally decrease, with positive changes to the Performance References and/or (ii) the value of which generally decreases, and/or the payment or delivery obligations under which generally increase, with negative changes to the Performance References.

"LTM EBITDA" means Consolidated EBITDA of the Issuer measured for the period of the most recent four consecutive fiscal quarters ending prior to the date of such determination for which consolidated financial statements are available (which may, at the election of the Issuer, be internal financial statements), in each case with such pro forma adjustments as are consistent with the pro forma adjustments set forth in the definition of "Pro Forma Basis" and "Fixed Charge Coverage Ratio."

"Management Advances" means loans or advances made to, or Guarantees with respect to loans or advances made to, future, present or former employees, directors, officers, managers, contractors, consultants or advisors (or their respective Controlled Investment Affiliates or Immediate Family Members) of any Parent Entity, the Issuer or any Restricted Subsidiary:

(1) (a) in respect of travel, entertainment, relocation or moving related expenses, payroll advances and other analogous or similar expenses or payroll expenses, in each case incurred in the ordinary course of business or consistent with past practice or (b) for purposes of funding any such person's purchase of Capital Stock (or similar obligations) of the Issuer, its Subsidiaries or any Parent Entity with (in the case of this clause (1)(b)) the approval of the Board of Directors of the Issuer;

(2) in respect of relocation or moving related expenses, payroll advances and other analogous or similar expenses or payroll expenses, in each case incurred in connection with any closing or consolidation of any facility or office; or

(3) not exceeding the greater of (i) $25.0 million and (ii) 5.0% of LTM EBITDA in the aggregate outstanding at the time of incurrence.

"Margin Stock" has the meaning assigned to such term in Regulation U of the FRB as from time to time in effect.

"Material Intellectual Property" shall mean intellectual property that is material to the business of the Issuer and its Restricted Subsidiaries, taken as a whole, as determined by the Issuer in good faith.

"Material Subsidiary" means any Restricted Subsidiary of the Issuer constituting, or group of Restricted Subsidiaries of the Issuer in the aggregate constituting (as if such Restricted Subsidiaries constituted a single Subsidiary), a "significant subsidiary" in accordance with Rule 1-02 under Regulation S-X.

"Moody's" means Moody's Investors Service, Inc. or any of its successors or assigns that is a Nationally Recognized Statistical Rating Organization.

"Nationally Recognized Statistical Rating Organization" means a nationally recognized statistical rating organization within the meaning of Rule 436 under the Securities Act.

"Net Available Cash" with respect to any Asset Disposition, means cash proceeds received (including any cash proceeds received from the sale or other disposition of any Designated Non-Cash Consideration received in any Asset Disposition, but only as and when received, but excluding any other consideration received in the form of assumption by the acquiring Person of Indebtedness or other obligations relating to the properties or assets that are the subject of such Asset Disposition or received in any other non-cash form) therefrom, in each case net of:

(1) all legal, accounting, consulting, investment banking, survey costs, title and recording expenses, title insurance premiums, payments made in order to obtain a necessary consent or required by applicable law, brokerage and sales commissions, relocation expenses, commissions, premiums (including tender premiums), defeasance costs, underwriting discounts, fees, costs and expenses (including original issue discount, upfront fees or similar fees) in connection with such transaction;

(2) all Taxes paid, reasonably estimated to be payable, Tax reserves set aside or payable or accrued as a liability under GAAP (including, for the avoidance of doubt, any income, withholding and other Taxes payable as a result of the distribution or deemed distribution of such proceeds to the Issuer or any of its Subsidiaries, transfer Taxes, deed or mortgage recording Taxes and Taxes that would be payable in connection with any repatriation of such proceeds), as a consequence of such transaction, including distributions and payments for Permitted Tax Amounts, made as a result of or in connection with such transaction or any transactions occurring or deemed to occur to effectuate a payment under this Indenture;

(3) all payments made on any Indebtedness which is (x) secured by any assets subject to such transaction, in accordance with the terms of any Lien upon such assets, (y) is owed by a Non-Guarantor or (z) which is required by applicable law be repaid out of the proceeds from such transaction;

(4) all distributions and other payments required to be made to non-controlling interest or minority interest holders (other than any Parent Entity, the Issuer or any of its Subsidiaries) in Subsidiaries or joint ventures as a result of such transaction;

(5) all costs associated with unwinding any related Hedging Obligations in connection with such transaction;

(6) the deduction of appropriate amounts required to be provided by the seller as a reserve, in accordance with GAAP, against any liabilities associated with the assets disposed of in such transaction and retained by the Issuer or any Restricted Subsidiary after such transaction, including pension and other post-employment benefit liabilities and liabilities related to environmental matters or against any indemnification obligations associated with such transaction;

(7) any portion of the purchase price from such transaction placed in escrow, whether for the satisfaction of any indemnification obligations in respect of such transaction, as a reserve for adjustments to the purchase price associated with any such transaction or otherwise in connection with such transaction; and

(8) the amount of any liabilities (other than Indebtedness in respect of the Credit Agreement and the Notes) directly associated with such asset being sold and retained by the Issuer or any of its Restricted Subsidiaries; and

(9) the amount of any Restricted Payment made with the proceeds of any such transaction pursuant to Section 3.03(b)(12).

"Net Short" means, with respect to a Holder or beneficial owner, as of a date of determination, either (i) the value of its Short Derivative Instruments exceeds the sum of the (x) the value of its Notes plus (y) the value of its Long Derivative Instruments as of such date of determination or (ii) it is reasonably expected that such would have been the case were a Failure to Pay or Bankruptcy Credit Event (each as defined in the 2014 ISDA Credit Derivatives Definitions) to have occurred with respect to the Issuer or any Guarantor immediately prior to such date of determination.

"Non-Financing Lease Obligation" means a lease obligation that is not required to be accounted for as a financing or capital lease in accordance with GAAP; *provided* that all obligations of the Issuer and its Restricted Subsidiaries that are or would be characterized as an operating lease as determined in accordance with GAAP as in effect on January 1, 2015 (whether or not such operating lease was in effect on such date) shall continue to be accounted for as an operating lease (and not as a Capitalized Lease Obligation) for purposes of this Indenture regardless of any change in GAAP following January 1, 2015 (that would otherwise require such obligation to be recharacterized as a Capitalized Lease Obligation). For the avoidance of doubt, a straight-line or operating lease shall be considered a Non-Financing Lease Obligation.

"Non-Guarantor" means any Restricted Subsidiary that is not a Guarantor.

"Non-U.S. Person" means a Person who is not a U.S. Person (as defined in Regulation S).

"Non-U.S. Subsidiary" means any direct or indirect Subsidiary of the Issuer that is not a U.S. Subsidiary.

"Note Documents" means the Notes (including Additional Notes), the Parent Guaranty Agreement, the BD Guarantee, the Note Guarantees, the Security Agreement, the Notes Security Documents, the First Lien Pari Passu Intercreditor Agreement, any Junior Lien Intercreditor Agreement, any other Intercreditor Agreement entered into pursuant to the terms hereof, and this Indenture (including the Supplemental Indenture)

"Note Guarantees" means the Guarantees of the Initial Notes and any Additional Notes.

"Notes" has the meaning ascribed to it in the recitals of this Indenture.

"Notes Collateral Agent" means U.S. Bank Trust Company, National Association, as collateral agent under this Indenture, together with its successors and assigns.

"Notes Custodian" means the custodian with respect to the Global Notes (as appointed by DTC) or any successor Person thereto, and shall initially be the Trustee.

"Notes Obligations" means Obligations in respect of the Notes, this Indenture, the Guarantees and the Notes Security Documents.

"Notes Secured Parties" means the Trustee, the Notes Collateral Agent and the Holders of the Notes.

"Notes Security Documents" means, collectively, the Security Agreement, the Intellectual Property Security Agreements, collateral assignments, Security Agreement Supplements, Intellectual Property Security Agreement Supplements, security agreements, pledge agreements or other similar agreements delivered to the Notes Collateral Agent that creates or purports to create a Lien in favor of the Notes Collateral Agent, and each of the other agreements, instruments or documents that creates or purports to create a Lien in favor of the Notes Collateral Agent for the benefit of the Notes Secured Parties.

"Obligations" means any principal, interest (including Post-Petition Interest (as defined in the First Lien Pari Passu Intercreditor Agreement) accruing on or after the filing of any petition in bankruptcy or for reorganization relating to the Issuer or any Guarantor whether or not a claim for Post-Petition Interest is allowed in such proceedings), penalties, fees, indemnifications, reimbursements (including reimbursement obligations with respect to letters of credit and bankers' acceptances), damages and other liabilities payable under the documentation governing any Indebtedness.

"Offering Memorandum" means the final offering memorandum dated March 23, 2022, relating to the offering by the Issuer of $200,000,000 principal amount of the Initial Notes and any future offering memorandum relating to Additional Notes.

"Officer" means, with respect to any Person, (1) the Chairman of the Board of Directors, the Chief Executive Officer, the President, the Chief Financial Officer, any Executive Vice President, any Senior Vice President, any Vice President, the Treasurer, any Assistant Treasurer, any Managing Director, any Authorized Person, the Secretary or any Assistant Secretary (a) of such Person or (b) if such Person is owned or managed by a single entity, of such entity, or (2) any other individual designated as an "Officer" for the purposes of this Indenture by the Board of Directors of such Person.

"Officer's Certificate" means, with respect to any Person, a certificate signed by one Officer of such Person.

"Opinion of Counsel" means a written opinion from legal counsel who is reasonably satisfactory to the Trustee. The counsel may be an employee of or counsel to the Issuer or its Subsidiaries.

"Parent Entity" means any direct or indirect parent of the Issuer which holds directly or indirectly 100.0% of the equity interests of the Issuer and which does not hold Capital Stock in any other Person (except for any other Parent Entity).

"Parent Entity Expenses" means:

(1) fees, costs and expenses (including all legal, accounting and other professional fees, costs and expenses) incurred or paid by any Parent Entity in connection with reporting obligations under or otherwise incurred or paid in connection with compliance with applicable laws, rules or regulations of any governmental, regulatory or self-regulatory body or stock exchange, this Indenture or any other agreement or instrument relating to the Notes, the Guarantees or any other Indebtedness of the Issuer or any Restricted Subsidiary, including in respect of any reports filed or delivered with respect to the Securities Act, Exchange Act or the respective rules and regulations promulgated thereunder;

(2) customary salary, bonus, severance, indemnity, insurance (including premiums therefor) and other benefits payable to any employee, director, officer, manager, contractor, consultant or advisor of any Parent Entity or other Persons under its articles, charter, by-laws, partnership agreement or other organizational documents or pursuant to written agreements with any such Person to the extent relating to the Issuer and its Subsidiaries;

(3) (x) general corporate operating and overhead fees, costs and expenses, (including all legal, accounting and other professional fees, costs and expenses, and director and officer insurance (including premiums therefor)) and, following the first public offering of the Capital Stock of any Parent Entity, listing fees and other costs and expenses attributable to being a publicly traded company of any Parent Entity and (y) other operational expenses of any Parent Entity related to the ownership or operation of the business of the Issuer or any of the Restricted Subsidiaries;

(4) expenses incurred by any Parent Entity in connection with (i) any offering, sale, conversion or exchange of Capital Stock or Indebtedness (whether or not successful) and (ii) any related compensation paid to employees, directors, officers, managers, contractors, consultants or advisors (or their respective Controlled Investment Affiliates or Immediate Family Members) of such Parent Entity;

(5) amounts payable pursuant to any management services or similar agreements or the management services provisions in an investor rights agreement or other equityholders' agreement (including any amendment thereto or replacement thereof so long as any such amendment or replacement is not materially disadvantageous in the reasonable determination of the Issuer to the Holders when taken as a whole, as compared to the management services or similar agreements as in effect immediately prior to such amendment or replacement), solely to the extent such amounts are not paid directly by the Issuer or its Subsidiaries; and

(6) amounts to finance Investments that would otherwise be permitted to be made pursuant to Section 3.03 hereof if made by the Issuer or a Restricted Subsidiary; *provided* that (A) such Restricted Payment shall be made substantially concurrently with the closing of such Investment, (B) such Parent Entity shall, immediately following the closing thereof, cause (1) all property acquired (whether assets or Capital Stock) to be contributed to the capital of the Issuer or one of its Restricted Subsidiaries or (2) the

merger, consolidation or amalgamation of the Person formed or acquired by or merged or consolidated with the Issuer or one of its Restricted Subsidiaries (to the extent not prohibited by Section 4.01 hereof) in order to consummate such Investment, (C) such Parent Entity and its Affiliates (other than the Issuer or a Restricted Subsidiary) receives no consideration or other payment in connection with such transaction except to the extent the Issuer or a Restricted Subsidiary could have given such consideration or made such payment in compliance with this Indenture and such consideration or other payment is included as a Restricted Payment under this Indenture, (D) any property received by the Issuer shall not increase amounts available for Restricted Payments pursuant to the Available Amount Builder Basket and (E) such Investment shall be deemed to be made by the Issuer or such Restricted Subsidiary pursuant to a provision of the covenant described in Section 3.03 or pursuant to the definition of "Permitted Investments."

"Parent Guaranty Agreement" has the meaning ascribed to it in the recitals of this Indenture.

"Pari Passu Indebtedness" means Indebtedness of the Issuer which ranks equally in right of payment to the Notes or of any Guarantor if such Indebtedness ranks equally in right of payment to the Guarantees of the Notes.

"Paying Agent" means any Person authorized by the Issuer to pay the principal of (and premium, if any) or interest on any Note on behalf of the Issuer.

"Perfection Exceptions" means the Issuer and Subsidiary Guarantors shall not be required to:

(i) enter into control agreements with respect to, or otherwise perfect any security interest by "control" (or similar arrangements) over, commodities accounts, securities accounts, deposit accounts, futures accounts, other bank accounts, cash and cash equivalents and accounts related to the clearing, payment processing and similar operations of the Restricted Group,

(ii) perfect the security interest in the following other than by the filing of a UCC financing statement: (1) letter-of-credit rights (as defined in the UCC), (2) commercial tort claims (as defined in the UCC), (3) Fixtures (as defined in the UCC), except to the extent that the same are Equipment (as defined in the UCC) and (4) Assigned Agreements (as defined in the Security Agreement),

(iii) send notices to account debtors or other contractual third-parties unless an Event of Default has occurred,

(iv) enter into, make or obtain any (x) security documents to be governed by the law of any jurisdiction outside of the United States or (y) other non-U.S. law filings or non-U.S. consents or corporate or organizational action in respect of security, including with respect to any share pledges and any intellectual property registered in any non-U.S. jurisdiction; provided, however, that the foregoing clause (iv) shall not affect the requirements to deliver certificates and related stock powers in respect of Equity Interest of Non-U.S. Subsidiaries constituting Collateral that would otherwise be required to be delivered pursuant to the Notes Security Documents,

(v) deliver landlord waivers, estoppels or collateral access letters,

(vi) enter into any source code escrow arrangement or be obligated to register intellectual property, or

(vii) make any filings or take any other actions to perfect or evidence any Lien on and security interest in any intellectual property except for filings in the United States Patent and Trademark Office of the United States Copyright Office and the filing of UCC financing statements.

"Permitted Asset Swap" means the concurrent purchase and sale or exchange of assets used or useful in a Similar Business or a combination of such assets and cash or Cash Equivalents between the Issuer or any of its Restricted Subsidiaries and another Person; *provided* that any cash or Cash Equivalents received in excess of the value of any cash or Cash Equivalents sold or exchanged must be applied in accordance with Section 3.05 hereof.

"Permitted Call Spread Swap Agreements" shall mean (a) a Swap Contract pursuant to which a Person acquires a call or a capped call option requiring the counterparty thereto to deliver to such Person shares of common stock of Person (or other Equity Interests, securities, property or assets following a merger event or other event or circumstance resulting in the common stock of such Person generally being converted into, or exchanged for, other Equity Interests, securities, property or assets), the cash value thereof or a combination thereof from time to time upon exercise of such option and (b) if entered into by such Person in connection with any Swap Contract described in clause (a) above, a Swap Contract pursuant to which such Person issues to the counterparty thereto warrants or other rights to acquire common stock of such Person (or other Equity Interests, securities, property or assets following a merger event or other event or circumstance resulting in the common stock of such Person generally being converted into, or exchanged for, other Equity Interests, securities, property or assets), whether such warrant or other right is settled in shares (or such other Equity Interests, securities, property or assets), cash or a combination thereof, in each case entered into by such Person in connection with the issuance of Permitted Convertible Notes; *provided* that the terms, conditions and covenants of each such Swap Contract shall be customary or more favorable than customary for Swap Contracts of such type (as determined by the Issuer in good faith).

"Permitted Convertible Notes" shall mean any notes issued by the Issuer or any direct or indirect parent of the Issuer that are convertible into common stock of the Issuer or any direct or indirect parent of the Issuer (or other Equity Interests, securities, property or assets following a merger event or other event or circumstance resulting in the common stock of the Issuer or any direct or indirect parent of the Issuer generally being converted into, or exchanged for, other Equity Interests, securities, property or assets), cash (the amount of such cash being determined by reference to the price of such common stock or such other Equity Interests, securities, property or assets), or any combination of any of the foregoing, and cash in lieu of fractional shares of common stock; *provided* that the issuance of such notes is permitted under Section 3.02.

"Permitted Intercompany Activities" means any transactions (A) between or among the Issuer and its Restricted Subsidiaries that are entered into in the ordinary course of business or consistent with past practice of the Issuer and its Restricted Subsidiaries and, in the reasonable determination of the Issuer are necessary or advisable in connection with the ownership or operation of the business of the Issuer and its Restricted Subsidiaries, including (i) payroll, cash management, purchasing, insurance and hedging arrangements; (ii) management, technology and licensing arrangements; and (iii) customary loyalty and rewards programs; and (B) between or among the Issuer, its Restricted Subsidiaries and any Captive Insurance Subsidiary.

"Permitted Investments" means (in each case, by the Issuer or any of the Restricted Subsidiaries):

(1) Investments in (a) a Restricted Subsidiary (including the Capital Stock of, or guarantees of obligations of, a Restricted Subsidiary) or the Issuer or (b) a Person (including the Capital Stock of any such Person) that will, upon the making of such Investment, become a Restricted Subsidiary;

(2) Investments in another Person if such Person is engaged, directly or through entities that will be Restricted Subsidiaries, in any Similar Business and as a result of such Investment such other Person, in one transaction or a series of transactions, is merged, amalgamated, consolidated or otherwise combined with or into, or transfers or conveys all or substantially all its assets (or such division, business unit, product line or business) to, or is liquidated into, the Issuer or a Restricted Subsidiary, and any Investment held by such Person; *provided* that such Investment was not acquired by such Person in contemplation of such acquisition, merger, amalgamation, consolidation, combination, transfer or conveyance;

(3) Investments in cash, Cash Equivalents or Investment Grade Securities;

(4) Investments in receivables owing to the Issuer or any Restricted Subsidiary created or acquired in the ordinary course of business or consistent with past practice;

(5) Investments in payroll, travel, entertainment, relocation, moving-related and similar advances that are made in the ordinary course of business or consistent with past practice;

(6) Management Advances;

(7) Investments (including debt obligations and equity interests) (a) received in settlement, compromise or resolution of debts created in the ordinary course of business or consistent with past practice, (b) in exchange for any other Investment or accounts receivable, endorsements for collection or deposit held by the Issuer or any such Restricted Subsidiary, (c) as a result of foreclosure, perfection or enforcement of any Lien, (d) in satisfaction of judgments or (e) pursuant to any plan of reorganization or similar arrangement including upon the bankruptcy or insolvency of a debtor or litigation, arbitration or other disputes or otherwise with respect to any secured Investment or other transfer of title with respect to any secured Investment in default;

(8) Investments made as a result of the receipt of promissory notes or other non-cash consideration (including earn-outs) from a sale or other disposition of property or assets, including an Asset Disposition;

(9) Investments (a) existing or pursuant to binding commitments, agreements or arrangements in effect on the Spin-Off Date and any modification, replacement, renewal, reinvestment or extension thereof; *provided* that the amount of any such Investment may not be increased pursuant to this clause (9) except (i) as required by the terms of such Investment or binding commitment as in existence on the Spin-Off Date (including in respect of any unused commitment), plus any accrued but unpaid interest (including any accretion of interest, original issue discount or the issuance of pay-in-kind securities) and premium payable by the terms of such Indebtedness thereon and fees and expenses associated therewith as of the Spin-Off Date or (ii) as otherwise permitted under this Indenture and (b) made after the Spin-Off Date in joint ventures of the Issuer or any of its Restricted Subsidiaries existing on the Spin-Off Date;

(10) Hedging Obligations, which transactions or obligations are not prohibited by Section 3.02 hereof;

(11) pledges or deposits with respect to leases or utilities provided to third parties in the ordinary course of business or Liens otherwise described in the definition of "Permitted Liens" or made in connection with Liens permitted under Section 3.06 hereof;

(12) any Investment to the extent made using Capital Stock of the Issuer (other than Disqualified Stock) or Capital Stock of any Parent Entity or any Unrestricted Subsidiary as consideration;

(13) any transaction to the extent constituting an Investment that is permitted by and made in accordance with Section 3.08(b) hereof (except those described in Sections 3.08(b)(1), (4), (8) and (9));

(14) Investments consisting of (i) purchases or other acquisitions of inventory, supplies, materials, equipment and similar assets or (ii) licenses, sublicenses, cross-licenses, leases, subleases, assignments, contributions or other Investments of intellectual property or other intangibles or services in the ordinary course of business pursuant to any joint development, joint venture or marketing arrangements with other Persons or any Intercompany License Agreement and any other Investments made in connection therewith;

(15) (i) Guarantees of Indebtedness not prohibited by Section 3.02 hereof and (other than with respect to Indebtedness) guarantees, keepwells and similar arrangements in the ordinary course of business or consistent with past practice, and (ii) performance guarantees and Contingent Obligations with respect to obligations that are not prohibited by this Indenture;

(16) Investments consisting of earnest money deposits required in connection with a purchase agreement, or letter of intent, or other acquisitions to the extent not otherwise prohibited by this Indenture;

(17) Investments of a Restricted Subsidiary acquired after the Spin-Off Date or of an entity merged or amalgamated into or consolidated with the Issuer or merged or amalgamated into or consolidated with a Restricted Subsidiary after the Spin-Off Date to the extent that such Investments were not made in contemplation of or in connection with such acquisition, merger, amalgamation or consolidation and were in existence on the date of such acquisition, merger, amalgamation or consolidation;

(18) any Investment in any Subsidiary or any joint venture in the ordinary course of business or consistent with past practice (including any cash management arrangements, cash pooling arrangements, intercompany loans or activities related thereto);

(19) contributions to a "rabbi" trust for the benefit of any employee, director, officer, manager, contractor, consultant, advisor or other service providers or other grantor trust subject to claims of creditors in the case of a bankruptcy of the Issuer, and Investments relating to non-qualified deferred payment plans in the ordinary course of business or consistent with past practice;

(20) Investments in joint ventures and similar entities and Unrestricted Subsidiaries having an aggregate fair market value, taken together with all other Investments made pursuant to this clause that are at that time outstanding, not to exceed the greater of (i) $175.0 million and (ii) 35.0% of LTM EBITDA (with the fair market value of each Investment being measured at the time made and without giving effect to subsequent changes in value), plus the amount of any returns (including dividends, payments, interest, distributions, returns of principal, profits on sale, repayments, income and similar amounts) in respect of such Investments (without duplication for purposes of Section 3.03 of any amounts applied pursuant to the Available Amount Builder Basket) with the fair market value of each Investment being measured at the time made and without giving effect to subsequent changes in value; *provided*, *however*, that if any Investment pursuant to this clause is made in any Person that is not the Issuer or a Restricted Subsidiary at the date of the making of such Investment and such Person becomes the Issuer or a Restricted Subsidiary after such date, such Investment shall thereafter be deemed to have been made pursuant to clause (1) or (2) above and shall cease to have been made pursuant to this clause;

(21) additional Investments having an aggregate fair market value, taken together with all other Investments made pursuant to this clause that are at that time outstanding, not to exceed the greater of (i) $300.0 million and (ii) 60.0% of LTM EBITDA (with the fair market value of each Investment being measured at the time made and without giving effect to subsequent changes in value), plus the amount of any returns (including dividends, payments, interest, distributions, returns of principal, profits on sale, repayments, income and similar amounts) in respect of such Investments (without duplication for purposes of Section 3.03 of any amounts applied pursuant to the Available Amount Builder Basket) with the fair market value of each Investment being measured at the time made and without giving effect to subsequent changes in value; *provided*, *however*, that if any Investment pursuant to this clause is made in any Person that is not the Issuer or a Restricted Subsidiary at the date of the making of such Investment and such Person becomes the Issuer or a Restricted Subsidiary after such date, such Investment shall thereafter be deemed to have been made pursuant to clause (1) or (2) above and shall cease to have been made pursuant to this clause;

(22) any Investment in a Similar Business having an aggregate fair market value, taken together with all other Investments made pursuant to this clause that are at that time outstanding, not to exceed the greater of (i) $125.0 million and (ii) 25.0% of LTM EBITDA (with the fair market value of each Investment being measured at the time made and without giving effect to subsequent changes in value), plus the amount of any returns (including dividends, payments, interest, distributions, returns of principal, profits on sale, repayments, income and similar amounts) in respect of such Investments (without duplication for purposes of Section 3.03 of any amounts applied pursuant to the Available Amount Builder Basket) with the fair market value of each Investment being measured at the time made and without giving effect to subsequent changes in value; *provided*, *however*, that if any Investment pursuant to this clause is made in any Person that is not the Issuer or a Restricted Subsidiary at the date of the making of such Investment and such Person becomes the Issuer or a Restricted Subsidiary after such date, such Investment shall thereafter be deemed to have been made pursuant to clause (1) or (2) above and shall cease to have been made pursuant to this clause;

(23) (i) Investments arising in connection with a Qualified Securitization Financing or Receivables Facility and (ii) distributions or payments of Securitization Fees and purchases of Securitization Assets or Receivables Assets in connection with a Qualified Securitization Financing or Receivables Facility;

(24) Investments in connection with the Transactions;

(25) repurchases of the Notes;

(26) Investments by an Unrestricted Subsidiary entered into prior to the day such Unrestricted Subsidiary is redesignated as a Restricted Subsidiary as described under Section 3.20;

(27) guaranty and indemnification obligations arising in connection with surety bonds issued in the ordinary course of business or consistent with past practice;

(28) Investments (a) consisting of purchases and acquisitions of assets or services in the ordinary course of business or consistent with past practice, (b) made in the ordinary course of business or consistent with past practice in connection with obtaining, maintaining or renewing client, franchisee and customer contracts and loans or (c) advances, loans, extensions of credit (including the creation of receivables) or prepayments made to, and guarantees with respect to obligations of, franchisees, distributors, suppliers, lessors, licensors and licensees in the ordinary course of business or consistent with past practice;

(29) Investments in prepaid expenses, negotiable instruments held for collection and lease, utility and workers' compensation, performance and similar deposits entered into as a result of the operations of the business in the ordinary course of business or consistent with past practice;

(30) Investments consisting of UCC Article 3 endorsements for collection or deposit and Article 4 trade arrangements with customers (or any comparable or similar provisions in other applicable jurisdictions) in the ordinary course of business or consistent with past practices;

(31) any Investment by any Captive Insurance Subsidiary in connection with the provision of insurance to the Issuer or any Subsidiaries, which Investment is made in the ordinary course of business or consistent with past practice of such Captive Insurance Subsidiary, or by reason of applicable law, rule, regulation or order, or that is required or approved by any regulatory authority having jurisdiction over such Captive Insurance Subsidiary or its business, as applicable;

(32) non-cash Investments in connection with tax planning and reorganization activities, and Investments in connection with any Permitted Intercompany Activities, Permitted Tax Restructuring and related transactions;

(33) Investments made from casualty insurance proceeds in connection with the replacement, substitution, restoration or repair of assets on account of a Casualty Event; and

(34) any other Investment so long as (x) no Default or Event of Default described in clauses (1), (2), (7) or (8) of Section 6.01 exists and (y) immediately after giving pro forma effect to the Investment and the incurrence of any Indebtedness the net proceeds of which are used to make such Investment, the Consolidated Total Net Leverage Ratio shall be no greater than 3.10 to 1.00.

"Permitted Liens" means, with respect to any Person:

(1) Liens on assets or property of a Restricted Subsidiary that is not a Guarantor securing Indebtedness and other Obligations of any Restricted Subsidiary that is not a Guarantor;

(2) pledges, deposits or Liens (a) in connection with workmen's compensation laws, payroll taxes, unemployment insurance laws, employers' health tax and other social security laws or similar legislation or other insurance related obligations (including in respect of deductibles, self-insured retention amounts and premiums and adjustments thereto), (b) securing liability, reimbursement or indemnification obligations of (including obligations in respect of letters of credit or bank guarantees or similar instruments) for the benefit of insurance carriers under insurance or self-insurance arrangements or otherwise supporting the payments of items set forth in the foregoing clause (a), or (c) in connection with bids, tenders, completion guarantees, contracts, leases, utilities, licenses, public or statutory obligations, or to secure the performance of bids, trade contracts, government contracts and leases, statutory obligations, surety, stay, indemnity, warranty, release, judgment, customs, appeal, performance bonds, guarantees of government contracts, return of money bonds, bankers' acceptance facilities and obligations of a similar nature (including those to secure health, safety and environmental obligations), and obligations in respect of letters of credit, bank guarantees or similar instruments that have been posted to support the same, or as security for contested taxes or import or customs duties or for the payment of rent, or other obligations of like nature, in each case incurred in the ordinary course of business or consistent with past practice;

(3) Liens with respect to outstanding motor vehicle fines and Liens imposed by law or regulation, including carriers', warehousemen's, mechanics', landlords', suppliers', materialmen's, repairmen's, architects', construction contractors' or other similar Liens, in each case (x) for amounts not overdue for a period of more than 60 days or, if more than 60 days overdue, are unfiled and no other action has been taken to enforce such Liens or that are being contested in good faith by appropriate proceedings or (y) so long as such Liens do not individually or in the aggregate have a material adverse effect on the Issuer and its Subsidiaries, taken as a whole;

(4) Liens for Taxes, assessments or other governmental charges, in each case (x)(i) that are not overdue for a period of more than 60 days, (ii) that are not yet payable or subject to penalties for nonpayment, (iii) that are being contested in good faith by appropriate proceedings and with respect to which appropriate reserves required pursuant to GAAP (or other applicable accounting principles) have been made in respect thereof or (iv) for property Taxes on property of the Issuer or one of its Subsidiaries that the Issuer (or the applicable Subsidiary) has determined to abandon if the sole recourse for such Tax is to such property or (y) so long as such Liens do not individually or in the aggregate have a material adverse effect on the Issuer and its Subsidiaries, taken as a whole;

(5) encumbrances, charges, ground leases, easements (including reciprocal easement agreements), survey exceptions, restrictions, encroachments, protrusions, by-law, regulation, zoning restrictions or reservations of, or rights of others for, licenses, rights of way, servitudes, sewers, electric lines, drains, telegraph, telephone and cable television lines and other similar purposes, or zoning, building codes or other restrictions (including minor defects and irregularities in title and similar encumbrances) as to the use of real properties, exceptions on title policies insuring Liens granted on any mortgaged properties or any other collateral or Liens incidental to the conduct of the business of such Person or to the ownership of its properties, including servicing agreements, development agreements, site plan agreements, subdivision agreements, facilities sharing agreements, cost sharing agreements and other similar agreements, charges or encumbrances, which do not in the aggregate materially interfere with the ordinary course conduct of the business of the Issuer and its Restricted Subsidiaries, taken as a whole;

(6) Liens (a) securing Hedging Obligations, Cash Management Obligations and the costs thereof; (b) that are rights of set-off, rights of pledge or other bankers' Liens (i) relating to treasury, depository and cash management services or any automated clearing house transfers of funds in the ordinary course of business or consistent with past practice, (ii) relating to pooled deposit or sweep accounts to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of the Issuer or any Subsidiary or consistent with past practice or (iii) relating to purchase orders and other agreements entered into with customers of the Issuer or any Restricted Subsidiary in the ordinary course of business or consistent with past practice; (c) on cash accounts securing Indebtedness and other Obligations permitted to be incurred under Section 3.02(b)(8)(e) with financial institutions; (d) 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 or consistent with past practice and not for speculative purposes; and (e) (i) of a collection bank arising under Section 4-210 of the UCC or any comparable or successor provision on items in the course of collection, (ii) in favor of a banking or other financial institution or electronic payment service providers arising as a matter of law encumbering deposits (including the right of set-off) arising in the ordinary course of business in connection with the maintenance of such accounts and (iii) arising under customary general terms and conditions of the account bank in relation to any bank account maintained with such bank and attaching only to such account and the products and proceeds thereof, which Liens, in any event, do not secure any Indebtedness;

(7) leases, licenses, subleases and sublicenses of assets (including real property, intellectual property, software and other technology rights), in each case entered into in the ordinary course of business, consistent with past practice or, with respect to intellectual property, software and other technology rights, that are not material to the conduct of the business of the Issuer and its Restricted Subsidiaries, taken as a whole;

(8) Liens securing or otherwise arising out of judgments, decrees, attachments, orders or awards not giving rise to an Event of Default under Section 6.01(a)(5);

(9) Liens (a) securing Capitalized Lease Obligations, or Purchase Money Obligations, or securing the payment of all or a part of the purchase price of, or securing Indebtedness or other Obligations incurred to finance or refinance the acquisition, improvement or construction of, assets or property acquired or constructed in the ordinary course of business; *provided* that (i) the aggregate principal amount of Indebtedness secured by such Liens is otherwise permitted to be incurred under this Indenture, and (ii) any such Liens may not extend to any assets or property of the Issuer or any Restricted Subsidiary other than the assets or property, the acquisition, leasing, expansion, construction, installation, replacement, repair or improvement and assets and property affixed or appurtenant thereto and accessions, additions, improvements, proceeds, dividends or distributions thereof, including after-acquired property that is (A) affixed or incorporated into the property or assets covered by such Lien, (B) after-acquired property or assets subject to a Lien securing such Indebtedness, the terms of which Indebtedness require or include a pledge of after-acquired property or assets and (C) the proceeds and products thereof and (b) any interest or title of a lessor, sublessor, franchisor, licensor or sublicensor or secured by a lessor's, sublessor's, franchisor's, licensor's or sublicensor's interest under any Capitalized Lease Obligations or Non-Financing Lease Obligations;

(10) Liens arising from UCC financing statements, including precautionary financing statements (or similar filings) regarding operating leases or consignments entered into by the Issuer and its Restricted Subsidiaries;

(11) Liens existing on the Spin-Off Date, including any Liens securing any Refinancing Indebtedness of any Indebtedness secured by Liens but excluding Liens securing the Credit Agreement;

(12) Liens on property, other assets or shares of stock of a Person at the time such Person becomes a Subsidiary (or at the time the Issuer or a Subsidiary acquires such property, other assets or shares of stock, including any acquisition by means of a merger, amalgamation, consolidation or other business combination transaction with or into the Issuer or any Restricted Subsidiary); *provided*, *however*, that such Liens are not created in anticipation of such other Person becoming a Subsidiary (or such acquisition of such property, other assets or stock); *provided*, *further*, that such Liens are limited to all or part of the same property, other assets or stock (plus property and assets affixed or appurtenant thereto and additions, improvements, accessions, proceeds, dividends or distributions thereof, including (i) after-acquired property that is affixed or incorporated into the property or assets covered by such Lien, (ii) after-acquired property or assets subject to a Lien securing such Indebtedness, the terms of which Indebtedness require or include a pledge of after-acquired property or assets and (iii) the proceeds and products thereof) that secured (or, under the written arrangements under which such Liens arose, could secure) the Obligations relating to any Indebtedness or other obligations to which such Liens relate;

(13) Liens securing Obligations relating to any Indebtedness or other obligations of the Issuer or a Restricted Subsidiary owing to the Issuer or a Restricted Subsidiary, or Liens in favor of the Issuer or any Restricted Subsidiary or the Trustee;

(14) Liens securing Refinancing Indebtedness incurred to refinance Indebtedness that was previously so secured, and permitted to be secured under this Indenture; *provided* that any such Lien is limited to all or part of the same property or assets (plus property and assets affixed or appurtenant thereto and additions, improvements, accessions, proceeds, dividends or distributions thereof, including after-

acquired property that is (i) affixed or incorporated into the property or assets covered by such Lien, (ii) after-acquired property or assets subject to a Lien securing such Indebtedness, the terms of which Indebtedness require or include a pledge of after-acquired property or assets and (iii) the proceeds and products thereof) that secured (or, under the written arrangements under which the original Lien arose, could secure) the Obligations relating to the Indebtedness or other obligations being refinanced or is in respect of property or assets that is or could be the security for or subject to a Permitted Lien hereunder;

(15) (a) mortgages, liens, security interests, restrictions, encumbrances or any other matters of record that have been placed by any government, statutory or regulatory authority, developer, landlord or other third party on property over which the Issuer or any Restricted Subsidiary has easement rights or on any leased property and subordination or similar arrangements relating thereto and (b) any condemnation or eminent domain proceedings affecting any real property;

(16) any encumbrance or restriction (including put and call arrangements) with respect to Capital Stock of any joint venture secured financing arrangement, joint venture or similar arrangement pursuant to any joint venture secured financing arrangement, joint venture or similar agreement;

(17) Liens on property or assets under construction (and related rights) in favor of a contractor or developer or arising from progress or partial payments by a third party relating to such property or assets;

(18) Liens arising out of conditional sale, title retention, hire purchase, consignment or similar arrangements for the sale or purchase of goods entered into in the ordinary course of business or consistent with past practice;

(19) Liens securing Indebtedness and other obligations in respect of (a) Credit Facilities, including any letter of credit facility relating thereto, under Section 3.02(b)(1) and (b) obligations of the Issuer or any Subsidiary in respect of any Cash Management Obligation or Hedging Obligation provided by any lender party to any Credit Facility or Affiliate of such lender (or any Person that was a lender or an Affiliate of a lender at the time the applicable agreements in respect of such Cash Management Obligation or Hedging Obligation were entered into) or provided by any other Person; *provided* that such obligation is otherwise permitted to be secured under such Credit Facility; *provided*, *further*, that in the case of any such Liens on the Collateral securing Credit Facilities under this clause (19) and (at the option of the Issuer) securing any other obligations under this clause (19) that are *pari passu* with the Liens securing the Notes, the applicable representative for such Credit Facility shall be subject to the First Lien Pari Passu Intercreditor Agreement and, in the case of any such Liens on the Collateral securing Credit Facilities under this clause (19) and (at the option of the Issuer) securing any other obligations under this clause (19) that are junior to the Liens securing the Notes, the applicable representative for such Credit Facility shall be subject to a Junior Lien Intercreditor Agreement;

(20) Liens securing Indebtedness and other obligations under Section 3.02(b)(5); *provided* that such Liens shall only be permitted if such Liens are limited to all or part of the same property or assets, including Capital Stock (plus property and assets affixed or appurtenant thereto and additions, improvements, accessions, proceeds, dividends or distributions thereof, including after-acquired property that is (i) affixed or incorporated into the property or assets covered by such Lien, (ii) after-acquired property or assets subject to a Lien securing such Indebtedness, the terms of which Indebtedness require or include a pledge of after-acquired property or assets and (iii) the proceeds and products thereof) acquired, or of any Person acquired or merged, consolidated or amalgamated with or into the Issuer or any Restricted Subsidiary, in any transaction to which such Indebtedness or other Obligation relates;

(21) Liens securing Indebtedness and other obligations permitted by Section 3.02(b)(11) (*provided* that, in the case of clause (11), such Liens cover only the assets of such non-Guarantors) or Section 3.02(b)(17);

(22) [reserved];

(23) Liens on Capital Stock or other securities or assets of any Unrestricted Subsidiary that secure Indebtedness or other obligations of such Unrestricted Subsidiary;

(24) Liens deemed to exist in connection with Investments permitted under clause (4) of the definition of "Cash Equivalents";

(25) Liens on (i) goods the purchase price of which is financed by a documentary letter of credit issued for the account of the Issuer or any Subsidiary or Liens on bills of lading, drafts or other documents of title arising by operation of law or pursuant to the standard terms of agreements relating to letters of credit, bank guarantees and other similar instruments and (ii) specific items of inventory or other goods and proceeds of any Person securing such Person's obligations in respect of bankers' acceptances or documentary letters of credit issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods;

(26) Liens on vehicles or equipment of the Issuer or any Restricted Subsidiary in the ordinary course of business or consistent with past practice;

(27) Liens on assets or securities deemed to arise in connection with and solely as a result of the execution, delivery or performance of contracts to sell such assets or securities if such sale is otherwise not prohibited by this Indenture;

(28) (a) Liens on insurance policies and the proceeds thereof securing the financing of the premiums with respect thereto, and (b) Liens, pledges, deposits made or other security provided to secure liabilities to, or indemnification obligations of (including obligations in respect of letters of credit or bank guarantees for the benefits of), insurance carriers in the ordinary course of business or consistent with past practice;

(29) Liens solely on any cash earnest money deposits made in connection with any letter of intent or purchase agreement permitted under this Indenture;

(30) Liens (i) on cash advances or escrow deposits in favor of the seller of any property to be acquired in an Investment permitted under this Indenture to be applied against the purchase price for such Investment or otherwise in connection with any escrow arrangements with respect to any such Investment (including any letter of intent or purchase agreement with respect to such Investment), and (ii) consisting of an agreement to sell, transfer, lease or otherwise dispose of any property in an asset sale, in each case, solely to the extent such Investment or sale, transfer, lease or other disposition, as applicable, would have been permitted on the date of the creation of such Lien;

(31) Liens securing Indebtedness and other obligations in an aggregate principal amount not to exceed the greater of (i) $250.0 million and (ii) 50.0% of LTM EBITDA at the time incurred and any Liens securing any Refinancing Indebtedness of any Indebtedness secured by such Liens;

(32) Liens then existing with respect to assets of an Unrestricted Subsidiary on the day such Unrestricted Subsidiary is redesignated as a Restricted Subsidiary pursuant to Section 3.20;

(33) Liens securing Indebtedness and other obligations permitted under Section 3.02; *provided* that with respect to liens securing Indebtedness or other obligations permitted under this clause (33), at the time of incurrence and after giving pro forma effect thereto, (x) for any such Indebtedness or other obligations that are secured by a Lien on the Collateral on a *pari passu* basis with the Notes, the Consolidated First Lien Net Leverage Ratio on a pro forma basis does not exceed, at the Issuer's option, (i) 3.10 to 1.00 or (ii) in the case of Acquisition Indebtedness, the Consolidated First Lien Net Leverage Ratio immediately prior to the incurrence of such Indebtedness; and (y) for any such Indebtedness or other obligations that are secured by a Lien on the Collateral on a junior basis to the Notes, the Consolidated Secured Net Leverage Ratio on a pro forma basis does not exceed, at the Issuer's option, (i) 3.10 to 1.00 or (ii) in the case of Acquisition Indebtedness, the Consolidated Secured Net Leverage Ratio immediately prior to the incurrence of such Indebtedness; *provided* that in the case of any such Liens on the Collateral that are *pari passu* with the Liens securing the Notes, the applicable representative shall be subject to a First Lien Pari Passu Intercreditor Agreement and, in the case of Liens that are junior to the Liens securing the Notes, the applicable representative shall be subject to a Junior Lien Intercreditor Agreement;

(34) Liens deemed to exist in connection with Investments in repurchase agreements permitted by the covenant described under Section 3.03, *provided* that such Liens do not extend to any assets other than those that are the subject of such repurchase agreement;

(35) Liens arising in connection with a Qualified Securitization Financing or a Receivables Facility, and back-up Liens in connection with any other factoring, securitization or similar arrangement;

(36) Settlement Liens;

(37) rights of recapture of unused real property in favor of the seller of such property set forth in customary purchase agreements and related arrangements with any government, statutory or regulatory authority;

(38) the rights reserved to or vested in any Person or government, statutory or regulatory authority by the terms of any lease, license, franchise, grant or permit held by the Issuer or any Restricted Subsidiary 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;

(39) restrictive covenants affecting the use to which real property may be put and Liens or covenants restricting or prohibiting access to or from lands abutting on controlled access highways or covenants affecting the use to which lands may be put; *provided* that such Liens or covenants do not interfere with the ordinary conduct of the business of the Issuer or any Restricted Subsidiary;

(40) Liens on property, assets or Permitted Investments used to defease or to satisfy or discharge Indebtedness; *provided* that such defeasance, satisfaction or discharge is not prohibited by this Indenture;

(41) Liens relating to escrow arrangements securing Indebtedness, including (i) Liens on escrowed proceeds from the issuance of Indebtedness for the benefit of the related holders of debt securities or other Indebtedness (or the underwriters, arrangers, trustee or collateral agent thereof) and (ii) Liens on cash or Cash Equivalents set aside at the time of the incurrence of any Indebtedness, in either case to the extent such cash or Cash Equivalents prefund the payment of interest or premium or discount on such Indebtedness (or any costs related to the issuance of such Indebtedness) and are held in an escrow account or similar arrangement to be applied for such purpose;

(42) Liens securing the Notes outstanding on the Spin-Off Date and the related Guarantees and Liens securing the Existing Notes outstanding on the Spin-Off Date and the related Guarantees;

(43) Liens on assets securing any Indebtedness owed to any Captive Insurance Subsidiary by the Issuer or any Restricted Subsidiary;

(44) Liens arising in connection with any Permitted Intercompany Activities, Permitted Tax Restructuring and related transactions; and

(45) Liens arising in connection with the Transactions.

In the event that a Permitted Lien meets the criteria of more than one of the types of Permitted Liens (at the time of incurrence or at a later date), the Issuer in its sole discretion may divide, classify or from time to time reclassify all or any portion of such Permitted Lien in any manner that complies with this Indenture and such Permitted Lien shall be treated as having been made pursuant only to the clause or clauses of the definition of "Permitted Liens" to which such Permitted Lien has been classified or reclassified.

"Permitted Tax Amount" means (a) for any taxable period for which the Issuer is a member (or is an entity treated as disregarded from a member) of a group filing a consolidated, group, affiliate, unitary, combined, or similar income or similar tax return with any direct or indirect parent of the Issuer, any income or similar Taxes for which such parent is liable that are attributable to the taxable income of the Issuer and its applicable Subsidiaries up to an amount not to exceed with respect to such taxable period the amount of any such Taxes that the Issuer and such Subsidiaries would have been required to pay on a separate company basis or on a consolidated basis calculated as if the Issuer and such Subsidiaries had paid Tax on a consolidated, combined, group, affiliated, unitary or similar basis on behalf of a consolidated, combined, affiliated, unitary or similar group consisting only of the Issuer and such Subsidiaries for all relevant taxable periods; *provided* that such amount attributable to the taxable income of an Unrestricted Subsidiary for each taxable period shall not exceed the amount actually paid by such Unrestricted Subsidiary to the Issuer or a Guarantor for such purposes and (b) franchise and similar taxes required to be paid by any direct or indirect parent of the Issuer to maintain its organizational existence.

"Permitted Tax Restructuring" means any reorganizations, restructuring and other activities related to Tax planning, Tax reorganization, or any Tax restructuring entered into prior to, on or after the date hereof so long as such Permitted Tax Restructuring is not materially adverse to the Holders of the Notes (as determined by the Issuer in good faith). For purposes of clarity, a Permitted Tax Restructuring may include (but is not limited to) reorganizations, restructurings, and other activities related to Tax planning, Tax reorganization, or any Tax restructuring entered into by or among any Parent Entity and any Subsidiary of the Issuer.

"Person" means any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, limited liability company, government or any agency or political subdivision thereof or any other entity.

"Pounds Sterling" and "£" means freely transferable lawful money of the United Kingdom (expressed in Pounds Sterling).

"Predecessor Note" of any particular Note means every previous Note evidencing all or a portion of the same debt as that evidenced by such particular Note; and, for the purposes of this definition, any Note authenticated and delivered under Section 2.11 in exchange for or in lieu of a mutilated, destroyed, lost or stolen Note shall be deemed to evidence the same debt as the mutilated, destroyed, lost or stolen Note.

"Preferred Stock," as applied to the Capital Stock of any Person, means Capital Stock of any class or classes (however designated) which is preferred as to the payment of dividends or as to the distribution of assets upon any voluntary or involuntary liquidation or dissolution of such Person, over shares of Capital Stock of any other class of such Person.

"Prepayment Amount" means an amount equal to (A) all voluntary prepayments of Consolidated Funded First Lien Indebtedness, (B) all repurchases and/or cancellations of Consolidated Funded First Lien Indebtedness in an amount equal to the amount of the Indebtedness retired in connection with such repurchase (in the case of any revolving credit facility, solely to the extent accompanied by a corresponding, permanent reduction in the applicable revolving credit commitment) and (C) all voluntary prepayments, repurchases and/or cancellations of any other Consolidated Funded First Lien Indebtedness, in each case (x) including any payments made at a discount to par or via an open-market purchase (with credit given for the actual amount of any cash payment) and (y) to the extent not funded with the proceeds of long-term Indebtedness (it being agreed and understood, for the avoidance of doubt, that Indebtedness incurred pursuant to any revolving credit facility shall not constitute long-term Indebtedness for such purpose).

"Pro Forma Basis" means:

(a) for any events described below that occur subsequent to the commencement of a period for which the financial effect of such events is being calculated, and giving effect to the events for which such calculation is being made, such calculation will give pro forma effect to such events as if such events occurred on the first day of the reference period:

(i) the incurrence, assumption, guarantee, redemption, defeasance, retirement or extinguishment of any Indebtedness (other than Indebtedness incurred under any revolving credit facility unless such Indebtedness has been permanently repaid and has not been replaced), the incurrence of any Reserved Indebtedness Amount and/or the issuance, repurchase or redemption of Disqualified Stock or Preferred Stock;

(ii) the making of any Investments, acquisitions, dispositions, Asset Disposition, mergers, amalgamations, consolidations, operational changes, business expansions and disposed or discontinued operations; *provided* that for the avoidance of doubt, at the Issuer's option, notwithstanding any classification under GAAP of any Person, property, business or asset as discontinued operations, no pro forma effect shall be given to any discontinued operations (and the income or loss attributable to such Person, property, business or asset shall not be excluded for any purposes hereunder) until such disposition shall have been consummated;

(iii) operational changes or restructurings of the business of the Issuer or any of its Subsidiaries that the Issuer or such Subsidiary, as applicable, has determined to make and/or made during or subsequent to such reference period which are expected to have a continuing impact and are factually supportable, which would include cost savings resulting from head count reduction, closure of facilities and other operational changes and other cost savings in connection therewith; and

(iv) the designation of any Restricted Subsidiary as an Unrestricted Subsidiary or the designation of any Unrestricted Subsidiary as a Restricted Subsidiary and

(b) for purposes of this definition, whenever pro forma effect is to be given to a transaction (including the Transactions), the pro forma calculations shall be made in good faith by an Officer of the Issuer (and may include, for the avoidance of doubt, cost savings, operating expenses reductions and synergies resulting from such transactions which is being given pro forma effect). 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 on which the relevant calculation is being made had been the applicable rate for the entire reference period (taking into account any Hedging Obligations applicable to such Indebtedness). Interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by an Officer of the Issuer to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP. For purposes of making the computation referred to above, interest on any Indebtedness under a revolving credit facility computed with a pro forma basis shall be computed based upon the average daily balance of such Indebtedness during the reference period, except to the extent the outstanding Indebtedness thereunder is reasonably expected to increase as a result of any transactions as set forth in clause (a)(i) of this definition. Interest on Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a eurocurrency interbank offered rate, or other rate, shall be determined to have been based upon the rate actually chosen, or if none, then based upon such optional rate chosen as the Issuer may designate.

"Public Company Costs" means, as to any Person, costs associated with, or in anticipation of, or preparation for, compliance with the requirements of the Sarbanes-Oxley Act of 2002 and the rules and regulations promulgated in connection therewith and costs relating to compliance with the provisions of the Securities Act and the Exchange Act or any other comparable body of laws, rules or regulations, as companies with listed equity, directors' compensation, fees and expense reimbursement, costs relating to enhanced accounting functions and investor relations, stockholder meetings and reports to stockholders, directors' and officers' insurance and other executive costs, legal and other professional fees, listing fees and other transaction costs, in each case to the extent arising solely by virtue of the listing of such Person's equity securities on a national securities exchange or issuance of public debt securities.

"Purchase Money Obligations" means any Indebtedness incurred to finance or refinance the acquisition, leasing, expansion, construction, installation, replacement, repair or improvement of property (real or personal), equipment or assets (including Capital Stock), and whether acquired through the direct acquisition of such property or assets, or the acquisition of the Capital Stock of any Person owning such property or assets, or otherwise.

"QIB" means any "qualified institutional buyer" as such term is defined in Rule 144A.

"Qualified Securitization Financing" means any Securitization Facility that meets the following conditions:

(i) the Board of Directors shall have determined in good faith that such Securitization Facility (including financing terms, covenants, termination events and other provisions) is in the aggregate economically fair and reasonable to the Issuer and its Restricted Subsidiaries,

(ii) all sales of Securitization Assets and related assets by the Issuer or any Restricted Subsidiary to the Securitization Subsidiary or any other Person are made for fair consideration (as determined in good faith by the Issuer), and

(iii) the financing terms, covenants, termination events and other provisions thereof shall be fair and reasonable terms (as determined in good faith by the Issuer) and may include Standard Securitization Undertakings.

"Receivables Assets" means (a) any accounts receivable owed to the Issuer or a Restricted Subsidiary subject to a Receivables Facility and the proceeds thereof and (b) all collateral securing such accounts receivable, all contracts and contract rights, guarantees or other obligations in respect of such accounts receivable, all records with respect to such accounts receivable and any other assets customarily transferred together with accounts receivable in connection with a non-recourse accounts receivable factoring arrangement.

"Receivables Facility" means (x) the receivables factoring arrangement pursuant to the Master Factoring Agreement to be entered into by and between BD and/or certain of its Subsidiaries, on one hand, and the Issuer and/or certain of its Subsidiaries, on the other hand in connection with the Transactions, (as such agreement may be amended, replaced, supplemented or modified from time to time either (i) in a manner not materially adverse to the interests of the Holders or (ii) on arm's-length terms (as determined in good faith by the Issuer)) and (y) any arrangement between the Issuer or a Subsidiary and a commercial bank, an asset based lender or other financial institution or an Affiliate thereof pursuant to which (a) the Issuer or such Subsidiary, as applicable, sells (directly or indirectly) to such commercial bank, asset based lender or other financial institution (or such Affiliate) Receivables Assets and (b) the obligations of the Issuer or such Restricted Subsidiary, as applicable, thereunder are non-recourse (except for Securitization Repurchase Obligations) to the Issuer and such Subsidiary and (c) the financing terms, covenants, termination events and other provisions thereof shall be on market terms (as determined in good faith by the Issuer) and may include Standard Securitization Undertakings, and shall include any guaranty in respect of such arrangements.

"Refinance" or "refinance" means, in respect of any Indebtedness, to refinance, extend, renew, defease, amend, modify, supplement, restructure, replace, refund or repay, or to issue other Indebtedness in exchange or replacement for, such Indebtedness in whole or in part and regardless of whether the principal amount of such Refinancing Indebtedness is the same, greater than or less than the principal amount of the Refinanced Indebtedness. "Refinanced," "refinanced," "refinances," "Refinancing" and "refinancing" shall have correlative meanings.

"Refinancing Indebtedness" means Indebtedness that is incurred to refund, refinance, replace, exchange, renew, repay or extend (including pursuant to any defeasance or discharge mechanism) any Indebtedness (or unutilized commitment in respect of Indebtedness) existing on the Spin-Off Date or incurred (or established) in compliance with this Indenture (including Indebtedness of the Issuer that refinances Indebtedness of any Restricted Subsidiary and Indebtedness of any Restricted Subsidiary that refinances Indebtedness of the Issuer or a Restricted Subsidiary), including Indebtedness that refinances Refinancing Indebtedness, and Indebtedness incurred pursuant to a commitment that refinances any Indebtedness or unutilized commitment; *provided*, *however*, that:

(1) (a) such Refinancing Indebtedness (x) has a Weighted Average Life to Maturity at the time such Refinancing Indebtedness is incurred which is not less than the remaining Weighted Average Life to Maturity of the Indebtedness being refunded, refinanced, replaced, exchanged, renewed, repaid or extended or (y) requires no or nominal payments in cash (other than interest payments) prior to the date that is 91 days after the maturity date of the Notes; and (b) to the extent such Refinancing Indebtedness refinances Subordinated Indebtedness, Disqualified Stock or Preferred Stock, such Refinancing Indebtedness is Subordinated Indebtedness, Disqualified Stock or Preferred Stock, respectively, and, in the case of Subordinated Indebtedness, is subordinated to the Notes on terms at least as favorable to the Holders as those contained in the documentation governing the Indebtedness being refinanced;

(2) Refinancing Indebtedness shall not include:

(i) Indebtedness of a Subsidiary of the Issuer that is not a Guarantor that refinances Indebtedness of the Issuer or a Guarantor; or

(ii) Indebtedness of the Issuer or a Restricted Subsidiary that refinances Indebtedness of an Unrestricted Subsidiary; and

(3) such Refinancing Indebtedness is incurred in an aggregate principal amount (or if issued with original issue discount, an aggregate issue price) that is equal to or less than the sum of (x) the aggregate principal amount (or if issued with original issue discount, the aggregate accreted value) then outstanding of the Indebtedness being refinanced, plus (y) an amount equal to any unutilized commitment relating to the Indebtedness being refinanced or otherwise then outstanding under a Credit Facility or other financing arrangement being refinanced to the extent the unutilized commitment being refinanced could be drawn in compliance with Section 3.02 hereof immediately prior to such refinancing, plus (z) accrued and unpaid interest, dividends, premiums (including tender premiums), defeasance costs, underwriting discounts, fees, costs and expenses (including original issue discount, upfront fees or similar fees) in connection with such refinancing;

provided that clause (1) above will not apply to any extension, replacement, refunding, refinancing, renewal or defeasance of any Credit Facilities or Secured Indebtedness. Refinancing Indebtedness in respect of any Credit Facility or any other Indebtedness may be incurred from time to time after the termination, discharge or repayment of any such Credit Facility or other Indebtedness.

"Regulation S" means Regulation S under the Securities Act.

"Regulation S-X" means Regulation S-X under the Securities Act.

"Responsible Officer" means, when used with respect to the Trustee or the Notes Collateral Agent, any officer within the corporate trust department of the Trustee or the Notes Collateral Agent, including any vice president, assistant vice president, assistant secretary, assistant treasurer, trust officer or any other officer of the Trustee or Notes Collateral Agent who customarily performs functions similar to those performed by the Persons who at the time shall be such officers, respectively, or to whom any corporate trust matter relating to this Indenture is referred because of such Person's knowledge of and familiarity with the particular subject and who, in each case, shall have direct responsibility for the administration of this Indenture.

"Restricted Group" means the collective reference to from and after the Spin-Off Date, the Issuer and its Restricted Subsidiaries.

"Restricted Investment" means any Investment other than a Permitted Investment.

"Restricted Notes" means Initial Notes and Additional Notes bearing the Restricted Notes Legend.

"Restricted Subsidiary" means any Subsidiary of a Person other than an Unrestricted Subsidiary of such Person. Unless otherwise indicated hereunder, all references to Restricted Subsidiaries hereunder shall mean Restricted Subsidiaries of the Issuer.

"Rule 144A" means Rule 144A under the Securities Act.

"S&P" means Standard & Poor's Ratings Services, a Standard & Poor's Financial Services LLC business or any of its successors or assigns that is a Nationally Recognized Statistical Rating Organization.

"Sale and Leaseback Transaction" means any arrangement providing for the leasing by the Issuer or any of its Restricted Subsidiaries of any real or tangible personal property, which property has been or is to be sold or transferred by the Issuer or such Restricted Subsidiary to a third Person in contemplation of such leasing.

"Screened Affiliate" means any Affiliate of a Holder (i) that makes investment decisions independently from such Holder and any other Affiliate of such Holder that is not a Screened Affiliate, (ii) that has in place customary information screens between it and such Holder and any other Affiliate of such Holder that is not a Screened Affiliate and such screens prohibit the sharing of information with respect to the Issuer or its Subsidiaries, (iii) whose investment policies are not directed by such Holder or any other Affiliate of such Holder that is acting in concert with such Holder in connection with its investment in the Notes, and (iv) whose investment decisions are not influenced by the investment decisions of such Holder or any other Affiliate of such Holder that is acting in concert with such Holders in connection with its investment in the Notes.

"SEC" means the U.S. Securities and Exchange Commission or any Governmental Authority succeeding to any of its principal functions.

"Secured Indebtedness" means any Indebtedness secured by a Lien other than Indebtedness with respect to Cash Management Obligations.

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations of the SEC promulgated thereunder, as amended.

"Securitization Asset" means (a) any accounts receivable, mortgage receivables, loan receivables, royalty, franchise fee, license fee, patent or other revenue streams and other rights to payment or related assets and the proceeds thereof and (b) all collateral securing such receivable or asset, all contracts and contract rights, guarantees or other obligations in respect of such receivable or asset, lockbox accounts and records with respect to such account or asset and any other assets customarily transferred (or in respect of which security interests are customarily granted) together with accounts or assets in connection with a securitization, factoring or receivable sale transaction.

"Securitization Facility" means any of one or more securitization, financing, factoring or sales transactions, as amended, supplemented, modified, extended, renewed, restated or refunded from time to time, pursuant to which the Issuer or any of its Restricted Subsidiaries sells, transfers, pledges or otherwise conveys any Securitization Assets (whether now existing or arising in the future) to a Securitization Subsidiary or any other Person.

"Securitization Fees" means distributions or payments made directly or by means of discounts with respect to any Securitization Asset or Receivables Asset or participation interest therein issued or sold in connection with, and other fees, expenses and charges (including commissions, yield, interest expense and fees and expenses of legal counsel) paid in connection with, any Qualified Securitization Financing or Receivables Facility.

"Securitization Repurchase Obligation" means any obligation of a seller of Securitization Assets or Receivables Assets in a Qualified Securitization Financing or a Receivables Facility to repurchase or otherwise make payments with respect to Securitization Assets 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, offset 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.

"Securitization Subsidiary" means any Subsidiary of the Issuer in each case formed for the purpose of and that solely engages in one or more Qualified Securitization Financings or Receivables Facilities and other activities reasonably related thereto or another Person formed for this purpose.

"Security Agreement" means that certain notes first lien security agreement, dated as of the Spin-Off Date, by and among the Issuer, the Subsidiary Guarantors and the Notes Collateral Agent (together with each other security agreement and Security Agreement Supplement (as defined therein) executed and delivered pursuant thereto).

"Settlement" means the transfer of cash or other property with respect to any credit or debit card charge, check or other instrument, electronic funds transfer, or other type of paper-based or electronic payment, transfer, or charge transaction for which a Person acts as a processor, remitter, funds recipient or funds transmitter in the ordinary course of its business.

"Settlement Asset" means any cash, receivable or other property, including a Settlement Receivable, due or conveyed to a Person in consideration for a Settlement made or arranged, or to be made or arranged, by such Person or an Affiliate of such Person.

"Settlement Indebtedness" means any payment or reimbursement obligation in respect of a Settlement Payment.

"Settlement Lien" means any Lien relating to any Settlement or Settlement Indebtedness (and may include, for the avoidance of doubt, the grant of a Lien in or other assignment of a Settlement Asset in consideration of a Settlement Payment, Liens securing intraday and overnight overdraft and automated clearing house exposure, and similar Liens).

"Settlement Payment" means the transfer, or contractual undertaking (including by automated clearing house transaction) to effect a transfer, of cash or other property to effect a Settlement.

"Settlement Receivable" means any general intangible, payment intangible, or instrument representing or reflecting an obligation to make payments to or for the benefit of a Person in consideration for a Settlement made or arranged, or to be made or arranged, by such Person.

"Short Derivative Instrument" means a Derivative Instrument (i) the value of which generally decreases, and/or the payment or delivery obligations under which generally increase, with positive changes to the Performance References and/or (ii) the value of which generally increases, and/or the payment or delivery obligations under which generally decrease, with negative changes to the Performance References.

"Similar Business" means (a) any businesses, services or activities engaged in by the Issuer or any of its Subsidiaries or any Associates on the Spin-Off Date (after giving effect to the Transactions), (b) any businesses, services and activities engaged in by the Issuer or any of its Subsidiaries or any Associates that are related, complementary, incidental, ancillary or similar to any of the foregoing or are extensions or developments of any thereof, and (c) a Person conducting a business, service or activity specified in clauses (a) and (b), and any Subsidiary thereof. For the avoidance of doubt, any Person that invests in or owns Capital Stock or Indebtedness of another Person that is engaged in a Similar Business shall be deemed to be engaged in a Similar Business.

"Standard Securitization Undertakings" means representations, warranties, covenants, guarantees and indemnities entered into by the Issuer or any of its Subsidiaries which the Issuer has determined in good faith to be customary in a Securitization Facility or Receivables Facility, including those relating to the servicing of the assets of a Securitization Subsidiary, it being understood that any Securitization Repurchase Obligation shall be deemed to be a Standard Securitization Undertaking or, in the case of a Receivables Facility, a non-credit related recourse accounts receivable factoring arrangement.

"Stated Maturity" means, with respect to any security, the date specified in such security as the fixed date on which the payment of principal of such security is due and payable, including pursuant to any mandatory redemption provision, but shall not include any contingent obligations to repay, redeem or repurchase any such principal prior to the date originally scheduled for the payment thereof.

"Subordinated Indebtedness" means any Indebtedness (other than intercompany Indebtedness), whether outstanding on the Issue Date or thereafter incurred, which is expressly subordinated in right of payment to the Notes pursuant to a written agreement.

"Subsidiary" means, with respect to any Person:

(1) 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 shares of Capital Stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof 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;

(2) any partnership, joint venture, limited liability company or similar entity of which:

(a) more than 50.0% of the capital accounts, distribution rights, total equity and voting interests or general or 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

(b) such Person or any Subsidiary of such Person is a controlling general partner or otherwise controls such entity; or

(3) at the election of the Issuer, any partnership, joint venture, limited liability company or similar entity of which such Person or any Subsidiary of such Person is a controlling general partner or otherwise controls such entity.

Unless otherwise indicated hereunder, all references to Subsidiaries hereunder shall mean Subsidiaries of the Issuer.

"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.

"Taxes" means all present and future taxes, levies, imposts, deductions, charges, duties, assessments, fees and withholdings (including backup withholdings) and any other charges in the nature of a tax (including interest, penalties and other liabilities with respect thereto) that are imposed by any governmental or other taxing authority.

"Threshold Amount" means the greater of (x) $125.0 million and (y) 25.0% of LTM EBITDA.

"Total Assets" means, as of any date, the total consolidated assets of the Issuer and its Restricted Subsidiaries on a consolidated basis, as shown on the most recent consolidated balance sheet of the Issuer and its Restricted Subsidiaries, determined on a pro forma basis in a manner consistent with the definition of "Pro Forma Basis" and "Fixed Charge Coverage Ratio."

"Transaction Documents" means that certain the Separation and Distribution Agreement by and between BD and the Issuer, expected to be dated as of the Spin-Off Date, and any other agreements entered into by the Issuer in connection with the Transactions.

"Transactions" means,

(i) internal reorganization transactions undertaken by BD, the Issuer and their respective subsidiaries as a result of which the Issuer will hold, directly or through its subsidiaries, the business, operations and activities of the diabetes care unit of BD as conducted as of immediately prior to the Spin-Off Date, which includes the manufacturing and sale of syringes, pen needles and other products related to the injection or infusion of insulin and other drugs used in the treatment of diabetes (the "Spinco Business");

(ii) the Issuer (a) (1) obtaining the initial facilities under the Credit Agreement consisting of the initial revolving credit facility and initial term facility or facilities and (2) issuing the Existing Notes and the Notes and (b) (1) using the proceeds of the initial fundings thereunder to fund a special payment to BD (the "Special Payment") and (2) issuing the Notes to BD;

(iii) the distribution on a pro rata basis to equityholders of BD of all the shares of equity interests of the Issuer (with cash in lieu of fractional shares) (the consummation of the foregoing, the "Spin-Off," and the date of such consummation of the Spin-Off, the "Spin-Off Date");

(iv) the execution and performance of the agreements (along with schedules and exhibits thereto) relating to the foregoing;

(v) each of the transactions ancillary to the foregoing, including any distributions or other transfers of cash and/or other property or liabilities by BD or its Subsidiaries to the Issuer or its Subsidiaries, and vice versa;

(vi) the consummation of the Tender Offer and the Exchange (in each case as defined in the Offering Memorandum); and

(vii) the payment of fees, costs and expenses related to the foregoing (the "Transaction Costs").

For the avoidance of doubt, and notwithstanding anything to the contrary provided in this Indenture, the consummation of the Transactions shall not be prohibited by Sections 3.02, 3.03, 3.04, 3.05, 3.06, 3.07, 3.08, 3.10 or 3.20 or Article IV.

"Trust Indenture Act" means the Trust Indenture Act of 1939, as amended.

"Trustee" means U.S. Bank Trust Company, National Association, as trustee under this Indenture, together with its successors and assigns.

"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 or the Uniform Commercial Code (or similar code or statute) of another jurisdiction, to the extent it may be required to apply to any item or items of Collateral.

"Unrestricted Cash and Cash Equivalents" means cash or Cash Equivalents included on the consolidated balance sheet of the Issuer and its Restricted Subsidiaries as of the end of the most recent fiscal period for which consolidated financial statements are available (which may, at the Issuer's election, be internal financial statements) that (1) would not appear as "restricted" on the consolidated balance sheet of the Issuer and its Restricted Subsidiaries or (2) are restricted in favor of the Obligations with respect to the Notes and Note Guarantees (which may also secure other Indebtedness secured by a *pari passu* or junior Lien basis with the Obligations with respect to the Notes and Note Guarantees).

"Unrestricted Subsidiary" means:

(1) any Subsidiary of the Issuer that at the time of determination is an Unrestricted Subsidiary (as designated by the Issuer in the manner provided below); and

(2) any Subsidiary of an Unrestricted Subsidiary.

The Issuer may designate any Subsidiary of the Issuer, (including any newly acquired or newly formed Subsidiary or a Person becoming a Subsidiary through merger, consolidation or other business combination transaction, or Investment therein), to be an Unrestricted Subsidiary only if:

(1) at the time of such designation, such Subsidiary or any of its Subsidiaries does not own any Capital Stock of the Issuer or any other Subsidiary of the Issuer which is not a Subsidiary of the Subsidiary to be so designated or otherwise an Unrestricted Subsidiary; and

(2) such designation and the Investment, if any, of the Issuer in such Subsidiary complies with Section 3.03 and Section 3.20.

Notwithstanding anything else herein to the contrary, the Issuer shall not, and shall not permit any of its Restricted Subsidiaries to, sell, convey, transfer or otherwise dispose of (including pursuant to an Investment) any Material Intellectual Property that is owned by, or exclusively licensed to, the Issuer or any Restricted Subsidiary to any Unrestricted Subsidiary.

"U.S. Government Obligations" means securities that are (1) direct obligations of the United States of America for the timely payment of which its full faith and credit is pledged or (2) obligations of a Person controlled or supervised by and acting as an agency or instrumentality of the United States of America the timely payment of which is unconditionally Guaranteed as a full faith and credit obligation of the United States of America, which, in either case, are not callable or redeemable at the option of the issuer thereof, and shall also include a depositary receipt issued by a bank (as defined in Section 3(a)(2) of the Securities Act), as custodian with respect to any such U.S. Government Obligations or a specific payment of principal of or interest on any such U.S. Government Obligations held by such custodian for the account of the holder of such depositary receipt, *provided* that (except as required by law) such custodian is not authorized to make any deduction from the amount payable to the holder of such depositary receipt from any amount received by the custodian in respect of the U.S. Government Obligations or the specific payment of principal of or interest on the U.S. Government Obligations evidenced by such depositary receipt.

"U.S. Subsidiary" means any Subsidiary of the Issuer that is organized under the laws of the United States, any state thereof or the District of Columbia.

"Voting Stock" of a Person means all classes of Capital Stock of such Person then outstanding and normally entitled to vote in the election of directors.

"Weighted Average Life to Maturity" means, when applied to any Indebtedness at any date, the quotient (in number of years) obtained by dividing:

(1) the sum of the products obtained by multiplying (i) the number of years (calculated to the nearest one-twelfth) from the date of determination to the date of each successive scheduled principal payment of such Indebtedness or redemption or similar payment with respect to such Disqualified Stock or Preferred Stock, by (ii) the amount of such payment, by

(2) the sum of all such payments;

provided that, for purposes of determining the Weighted Average Life to Maturity of any Indebtedness, the effects of any prepayments or amortization made on such Indebtedness prior to the date of such determination will be disregarded.

"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 100.0% 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. Unless otherwise indicated hereunder, all references to Wholly Owned Subsidiaries hereunder shall mean Wholly Owned Subsidiaries of the Issuer.

"Yen" means freely transferable lawful money of Japan (expressed in Yen).

SECTION 1.02 Other Definitions.

Term	Defined in Section
"Acceptable Commitment"	**3.05(a)(3)(ii)**
"Accounting Change"	**"GAAP"**
"Accredited Investor Note"	**2.01(b)**
"Acquired Entity or Business"	**"Consolidated EBITDA"**
"Action"	**12.02(q)**
"Additional Restricted Notes"	**2.01(b)**
"Advance Offer"	**3.05(a)**
"Advance Portion"	**3.05(a)**
"Affiliate Transaction"	**3.08(a)**
"Agent Members"	**2.01(e)(2)**
"Applicable Proceeds"	**3.05(a)(3)**
"Approved Foreign Bank"	**"Cash Equivalents"**
"Asset Disposition Offer"	**3.05(a)**
"Authenticating Agent"	**2.02**
"Available Amount Builder Basket"	**3.03(a)**
"BD Guarantee Release Condition"	**10.01(a)**
"BD Guarantee Release Date"	**10.01(a)**
"Change of Control Offer"	**3.09(a)**
"Change of Control Payment"	**3.09(a)**
"Change of Control Payment Date"	**3.09(a)(3)**
"Clearstream"	**2.01(b)**
"Credit Agreement Effective Date"	**"Credit Agreement"**
"Converted Restricted Subsidiary"	**"Consolidated EBITDA"**
"Converted Unrestricted Subsidiary"	**"Consolidated EBITDA"**
"Covenant Defeasance"	**8.03**
"Covenant Suspension Event"	**3.21(a)**
"Declined Excess Proceeds"	**3.05(a)**
"Defaulted Interest"	**2.15**
"Determination Date"	**"Consolidated EBITDA"**
"Directing Holder"	**6.01(a)**

Term	Defined in Section
"Election Date"	**3.03**
"equity incentives"	**"Consolidated Net Income"**
"Euroclear"	**2.01(b)**
"Event of Default"	**6.01(a)**
"Excess Proceeds"	**3.05(a)**
"Fixed Charge Coverage Ratio Calculation Date"	**"Fixed Charge Coverage Ratio"**
"Foreign Disposition"	**3.05(c)(i)**
"Global Notes"	**2.01(b)**
"Guaranteed Obligations"	**10.01(c)**
"Initial Agreement"	**3.04(b)(17)**
"Initial Default"	**6.01(b)**
"Initial Lien"	**3.06**
"Institutional Accredited Investor Global Notes"	**2.01(b)**
"Institutional Accredited Investor Notes"	**2.01(b)**
"Issuer Order"	**2.02**
"Junior Lien Intercreditor Agreement"	**12.07**
"LCT Election"	**1.04(e)**
"LCT Public Offer"	**1.04(e)**
"LCT Test Date"	**1.04(e)**
"Legal Defeasance"	**8.02**
"Legal Holiday"	**13.06**
"New Contracts"	**"Consolidated EBITDA"**
"Noteholder Direction"	**6.01(a)**
"Notes Register"	**2.03**
"Notice"	**13.14**
"Offer Cooperation Agreement"	**2.01(b)**
"Outside Date"	**5.09(a)**
"Performance References"	**"Derivative Instrument"**
"Permitted Payments"	**3.03(b)**
"Position Representation"	**6.01(a)**

Term	Defined in Section
"primary obligations"	**"Contingent Obligations"**
"primary obligor"	**"Contingent Obligations"**
"Proceeds Application Period"	**3.05(a)(3)**
"protected purchaser"	**2.11**
"Redemption Date"	**5.07(b)**
"reference period"	**"Fixed Charge Coverage Ratio"**
"Refunding Capital Stock"	**3.03(b)(2)**
"Registrar"	**2.03**
"Regulation S Global Note"	**2.01(b)**
"Regulation S Notes"	**2.01(b)**
"Related Person"	**12.02(b)**
"Resale Restriction Termination Date"	**2.06(b)**
"Reserved Indebtedness Amount"	**3.02(c)(9)**
"Restricted Notes Legend"	**2.01(d)(1)**
"Restricted Payment"	**3.03(a)**
"Restricted Period"	**2.01(b)**
"Reversion Date"	**3.21**
"Rule 144A Global Note"	**2.01(b)**
"Rule 144A Notes"	**2.01(b)**
"Special Interest Payment Date"	**2.15(a)**
"Special Mandatory Redemption"	**5.09(a)**
"Special Mandatory Redemption Date"	**5.09(b)**
"Special Mandatory Redemption Price"	**5.09(a)**
"Special Payment"	**"Transactions"**
"Special Record Date"	**2.15(a)**
"Special Termination Date"	**5.09(a)**
"Spinco Business"	**"Transactions"**
"Spin-Off"	**"Transactions"**
"Spin-Off Date"	**5.09(a)**
"Sold Entity or Business"	**"Consolidated EBITDA"**

Term	Defined in Section
"Subsidiary Guarantees"	**10.01(b)**
"Subsidiary Guarantor"	**10.01(b)**
"Successor Company"	**4.01(a)(1)**
"Supplemental Indenture"	**10.01(b)**
"Suspended Covenants"	**3.21**
"Suspension Period"	**3.21**
"Total Leverage Excess Proceeds"	**"Applicable Percentage"**
"Transaction Costs"	**"Transactions"**
"Treasury Capital Stock"	**3.03(b)(2)**
"Verification Covenant"	**6.01(a)**

SECTION 1.03 [Reserved].

SECTION 1.04 Rules of Construction.

(a) Unless the context otherwise requires:

(1) a term has the meaning assigned to it;

(2) an accounting term not otherwise defined has the meaning assigned to it in accordance with IFRS or GAAP (as applicable);

(3) "or" is not exclusive;

(4) "including," "include" and "includes" are by way of example and shall be deemed to be followed by the phrase "without limitation";

(5) words in the singular include the plural and words in the plural include the singular;

(6) "will" shall be interpreted to express a command;

(7) the principal amount of any non-interest bearing or other discount security at any date shall be the principal amount thereof that would be shown on a balance sheet of the Issuer dated such date prepared in accordance with GAAP;

(8) the principal amount of any preferred stock shall be (i) the maximum liquidation value of such preferred stock or (ii) the maximum mandatory redemption or mandatory repurchase price with respect to such preferred stock, whichever is greater;

(9) all amounts expressed in this Indenture or in any of the Notes in terms of money refer to the lawful currency of the United States of America;

(10) the words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision;

(11) except as otherwise stated, (a) references herein to Articles, Sections and Exhibit mean the Articles and Sections of and Exhibits to this Indenture and (b) each reference herein to a particular Article or Section includes the Sections, subsections and paragraphs subsidiary thereto;

(12) unless otherwise specifically indicated, the term “consolidated” with respect to any Person refers to such Person consolidated with its Restricted Subsidiaries and excludes from such consolidation any Unrestricted Subsidiary as if such Unrestricted Subsidiary were not an Affiliate of such Person; and

(13) the words “execute,” “execution,” “signed” and “signature” and words of similar import used in or related to any document to be signed in connection with this Indenture, any Note or any of the transactions contemplated hereby (including amendments, waivers, consents and other modifications) shall be deemed to include electronic signatures and 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 in ink or the use of a paper-based recordkeeping system, as applicable, to the fullest 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 and any other similar state laws based on the Uniform Electronic Transactions Act; *provided* that, notwithstanding anything herein to the contrary, neither the Trustee nor the Notes Collateral Agent is under any obligation to agree to accept electronic signatures in any form or in any format except for facsimile and PDF unless expressly agreed to by the Trustee or the Notes Collateral Agent pursuant to reasonable procedures approved by the Trustee or the Notes Collateral Agent.

(b) Notwithstanding anything to the contrary herein, in the event an item of Indebtedness (or any portion thereof) is incurred or issued, any Lien is incurred or other transaction is undertaken in reliance on any ratio based exceptions, thresholds and baskets, such ratio(s) shall be calculated with respect to such incurrence, issuance or other transaction without giving effect to amounts being utilized under any other exceptions, thresholds or baskets (other than ratio based baskets) on the same date. Each item of Indebtedness that is incurred or issued, each Lien incurred and each other transaction undertaken will be deemed to have been incurred, issued or taken first, to the extent available, pursuant to the relevant ratio based test.

(c) Notwithstanding anything to the contrary herein, in the event an item of Indebtedness (or any portion thereof) is incurred or issued, any Lien is incurred or other transaction is undertaken in reliance on any ratio based exceptions, thresholds and baskets, such ratio(s) shall be calculated without regard to the incurrence of any Indebtedness under any revolving facility or letter of credit facility (1) immediately prior to or in connection therewith or (2) used to finance working capital needs of the Issuer and its Restricted Subsidiaries; *provided* that the aggregate principal amount of Indebtedness that may be excluded pursuant to this clause (2) shall not exceed $50,000,000.

(d) Any calculation or measure that is determined with reference to the Issuer’s financial statements (including Consolidated EBITDA, Consolidated Interest Expense, Consolidated Net Income, Fixed Charges, Fixed Charge Coverage Ratio, Consolidated First Lien Net Leverage Ratio, Consolidated Secured Net Leverage Ratio and Consolidated Total Net Leverage Ratio) may be determined with reference to the financial statements of a Parent Entity instead, so long as such Parent Entity does not hold any material assets other than, directly or indirectly, the Capital Stock of the Issuer.

(e) Notwithstanding anything herein to the contrary, when calculating the availability under any basket or ratio under this Indenture or compliance with any provision of this Indenture which requires the calculation of a basket or ratio in connection with any Limited Condition Transaction and any actions or transactions related thereto (including acquisitions, Investments, the incurrence, issuance or assumption of Indebtedness and the use of proceeds thereof, the incurrence or creation of Liens, repayments, Restricted Payments and Asset Dispositions), in each case, at the option of the Issuer (the Issuer's election to exercise such option, an "LCT Election"), the date of determination for availability under any such basket or ratio and whether any such action or transaction is permitted (or any requirement or condition therefor is complied with or satisfied (including as to the absence of any continuing Default or Event of Default)) under this Indenture shall be deemed to be the date (the "LCT Test Date") either (a) the definitive agreement (or other relevant definitive documentation) for such Limited Condition Transaction is entered into (or, if applicable, the date of delivery of an irrevocable declaration of a Restricted Payment or similar event or the date of any notice, which may be conditional, of such repayment, repurchase or refinancing of Indebtedness is given to the holders of such Indebtedness), or (b) solely in connection with an acquisition to which the United Kingdom City Code on Takeovers and Mergers applies, the date on which a "Rule 2.7 announcement" of a firm intention to make an offer (or equivalent announcement in another jurisdiction) (an "LCT Public Offer") in respect of a target of a Limited Condition Transaction and, in each case, if, after giving pro forma effect to the Limited Condition Transaction and any actions or transactions related thereto (including acquisitions, Investments, the incurrence, issuance or assumption of Indebtedness and the use of proceeds thereof, the incurrence or creation of Liens, repayments, Restricted Payments and Asset Dispositions) and any related pro forma adjustments as if they had occurred at the beginning of the most recent test period ended prior to the LCT Test Date, the Issuer or any of its Restricted Subsidiaries would have been permitted to take such actions or consummate such transactions on the relevant LCT Test Date in compliance with such ratio, test or basket (and any related requirements and conditions), such ratio, test or basket (and any related requirements and conditions) shall be deemed to have been complied with (or satisfied) for all purposes (in the case of Indebtedness, for example, whether such Indebtedness is committed, issued, assumed or incurred at the LCT Test Date or at any time thereafter); *provided* that (a) if financial statements for one or more subsequent fiscal quarters shall have become available, the Issuer may elect, in its sole discretion, to redetermine all such ratios, tests or baskets on the basis of such financial statements, in which case, such date of redetermination shall thereafter be the applicable LCT Test Date for purposes of such ratios, tests or baskets, (b) except as contemplated in the foregoing clause (a), compliance with such ratios, test or baskets (and any related requirements and conditions) shall not be determined or tested at any time after the applicable LCT Test Date for such Limited Condition Transaction and any actions or transaction related thereto (including acquisitions, Investments, the incurrence, issuance or assumption of Indebtedness and the use of proceeds thereof, the incurrence or creation of Liens, repayments, Restricted Payments and Asset Dispositions) and (c) Consolidated Interest Expense for purposes of the Fixed Charge Coverage Ratio will be calculated using an assumed interest rate as reasonably determined by the Issuer.

For the avoidance of doubt, if the Issuer has made an LCT Election, (1) if any of the ratios, tests or baskets for which compliance was determined or tested as of the LCT Test Date would at any time after the LCT Test Date have been exceeded or otherwise failed to have been complied with as a result of fluctuations in any such ratio, test or basket, including due to fluctuations in EBITDA or Total Assets of the Issuer or the Person subject to such Limited Condition Transaction, such baskets, tests or ratios will not be deemed to have been exceeded or failed to have been complied with as a result of such fluctuations; (2) any change to the applicable exchange rate utilized in calculating compliance with any Dollar based provision of this Indenture, at any time from and after the LCT Test Date to the date of consummation of such Investment, acquisition or repayment, repurchase or refinancing of Indebtedness, will not be taken into account for purposes of determining (x) whether any Indebtedness or Lien that is being incurred in connection with such Investment, acquisition or repayment, repurchase or refinancing of

Indebtedness is permitted, or (y) compliance by the Issuer or any of its Restricted Subsidiaries with any other provision of this Indenture; (3) if any related requirements and conditions (including as to the absence of any continuing Default or Event of Default) for which compliance or satisfaction was determined or tested as of the LCT Test Date would at any time after the LCT Test Date not have been complied with or satisfied (including due to the occurrence or continuation of a Default or an Event of Default), such requirements and conditions will not be deemed to have been failed to be complied with or satisfied (and such Default or Event of Default shall be deemed not to have occurred or be continuing); and (4) in calculating the availability under any ratio, test or basket in connection with any action or transaction unrelated to such Limited Condition Transaction following the relevant LCT Test Date and prior to the earlier of the date on which such Limited Condition Transaction is consummated or the date that the definitive agreement or date for redemption, purchase or repayment specified in an irrevocable notice for such Limited Condition Transaction is terminated, expires or passes (or, if applicable, the irrevocable notice is terminated, expires or passes or, as applicable, the offer in respect of an LCT Public Offer for, such acquisition is terminated), as applicable, without consummation of such Limited Condition Transaction, any such ratio, test or basket shall be determined or tested giving pro forma effect to such Limited Condition Transaction.

ARTICLE II

THE NOTES

SECTION 2.01 Form, Dating and Terms.

(a) The aggregate principal amount of Notes that may be authenticated and delivered under this Indenture is unlimited. The Initial Notes issued on the date hereof will be in an aggregate principal amount of $200,000,000. In addition, the Issuer may issue, from time to time in accordance with the provisions of this Indenture, Additional Notes (as provided herein). Furthermore, Notes may be authenticated and delivered upon registration of transfer, exchange or in lieu of, other Notes pursuant to Section 2.02, Section 2.06, Section 2.11, Section 2.13, Section 5.06 or Section 9.05, in connection with an Asset Disposition Offer pursuant to Section 3.05 or in connection with a Change of Control Offer pursuant to Section 3.09.

Notwithstanding anything to the contrary contained herein, the Issuer may not issue any Additional Notes, unless such issuance is in compliance with Section 3.02 and Section 3.06.

With respect to any Additional Notes, the Issuer shall set forth in one or more indentures supplemental hereto, the following information:

(A) the aggregate principal amount of such Additional Notes to be authenticated and delivered pursuant to this Indenture;

(B) the issue price and the issue date of such Additional Notes, including the date from which interest shall accrue; and

(C) whether such Additional Notes shall be Restricted Notes.

In authenticating and delivering Additional Notes, the Trustee shall be entitled to receive and shall be fully protected in relying upon, in addition to the Opinion of Counsel and Officer's Certificate required by Section 13.02, an Opinion of Counsel as to the due authorization, execution, delivery, validity and enforceability of such Additional Notes.

The Initial Notes and the Additional Notes shall be considered collectively as a single class for all purposes of this Indenture, including with respect to redemptions and offers to purchase, *provided* that any Additional Notes will not be issued with the same CUSIP, ISIN or other identifying number as the Initial Notes if such Additional Notes are not fungible with the Initial Notes for U.S. federal income tax purposes or if the Issuer otherwise determines that any such Additional Notes should be differentiated from any other Notes. Holders of the Initial Notes and the Additional Notes will vote and consent together on all matters to which such Holders are entitled to vote or consent as one class, and none of the Holders of the Initial Notes or the Additional Notes shall have the right to vote or consent as a separate class on any matter to which such Holders are entitled to vote or consent.

(b) The Initial Notes are being issued on the Issue Date by the Issuer to BD, pursuant to the Transaction Documents and the Intercompany Agreement, and immediately thereafter, BD shall become the sole beneficial holder of the Initial Notes, and on the settlement date of the Exchange (which is expected to occur one Business Day after the Issue Date and immediately following the consummation of the Spin-Off on the Spin-Off Date), pursuant to the Exchange Agreement, dated as of March 16, 2022, by and among BD, the Issuer and Morgan Stanley (the "Exchange Agreement") and the Offer Cooperation Agreement, dated March 23, 2022, between the Issuer, BD and Morgan Stanley, in its capacity as the sole book-running manager, as supplemented by the Joinder Agreement, to be dated as of the Spin-Off Date, by and among the Issuer and the Subsidiary Guarantors (the "Offer Cooperation Agreement"), BD intends to transfer beneficial ownership of the Initial Notes to Morgan Stanley in exchange for the BD Notes purchased by Morgan Stanley in the tender offers that were commenced by it on March 16, 2022, on the terms and subject to the conditions set forth in the Offer to Purchase, and immediately following the consummation of the Exchange, (x) BD intends to deliver the BD Notes it receives pursuant to the Exchange to the trustee of the BD Notes for cancellation, and (y) Morgan Stanley, as the sole book-running manager thereof, intends to sell the Initial Notes received therefrom to certain third-party investors, pursuant to, and in accordance with, the restrictions and regulations as set forth in this Indenture and the Offering Memorandum. The Initial Notes will be resold by Morgan Stanley initially only to third-party investors that are, and any Additional Notes (if issued as Restricted Notes) (the "Additional Restricted Notes") will be resold initially only to, (A) Persons reasonably believed to be QIBs in reliance on Rule 144A and (B) Non-U.S. Persons in reliance on Regulation S. Such Initial Notes and Additional Restricted Notes may thereafter be transferred to, among others, Persons reasonably believed to be QIBs, purchasers in reliance on Regulation S, and AIs and IAIs in accordance with Rule 501 under the Securities Act in each case, in accordance with the procedure described herein. Additional Notes offered after the date hereof may be offered and sold by the Issuer from time to time pursuant to one or more purchase agreements in accordance with applicable law.

Initial Notes initially issued by the Issuer to BD, pursuant to the Transaction Documents and the Intercompany Agreement, shall be issued in the form of a permanent global Note substantially in the form of Exhibit A, which is hereby incorporated by reference and made a part of this Indenture, including appropriate legends as set forth in Section 2.01(d), deposited with the Trustee, as custodian for DTC, duly executed by the Issuer and authenticated by the Trustee as hereinafter provided.

Initial Notes and Additional Restricted Notes offered and sold to Persons reasonably believed to be QIBs in the United States of America in reliance on Rule 144A (the "Rule 144A Notes") shall be issued in the form of a permanent global Note substantially in the form of Exhibit A, which is hereby incorporated by reference and made a part of this Indenture, including appropriate legends as set forth in Section 2.01(d) (the "Rule 144A Global Note"), deposited with the Trustee, as custodian for DTC, duly

executed by the Issuer and authenticated by the Trustee as hereinafter provided. The Rule 144A Global Note may be represented by more than one certificate if so required by DTC's rules regarding the maximum principal amount to be represented by a single certificate. The aggregate principal amount of the Rule 144A Global Note may from time to time be increased or decreased by adjustments made on the records of the Trustee, as custodian for DTC or its nominee, as hereinafter provided.

Initial Notes and any Additional Restricted Notes offered and sold to non-U.S. Persons outside the United States of America (the "Regulation S Notes") in reliance on Regulation S shall be issued in the form of a permanent global Note substantially in the form of Exhibit A, including appropriate legends as set forth in Section 2.01(d) (the "Regulation S Global Note"). Each Regulation S Global Note will be deposited upon issuance with, or on behalf of, the Trustee as custodian for DTC in the manner described in this Article II. Prior to the 40th day after the later of the commencement of the offering of the Initial Notes and the Issue Date (such period through and including such 40th day, the "Restricted Period"), interests in the Regulation S Global Note may only be transferred to Non-U.S. Persons pursuant to Regulation S, unless exchanged for interests in a Global Note in accordance with the transfer and certification requirements described herein.

Investors may hold their interests in the Regulation S Global Note through Euroclear Bank S.A./N.V. ("Euroclear") or Clearstream Banking, *société anonyme* ("Clearstream") if they are participants in those systems or indirectly through organizations that are participants in those systems. If such interests are held through Euroclear or Clearstream, Euroclear and Clearstream will hold such interests in the applicable Regulation S Global Note on behalf of their participants through customers' securities accounts in their respective names on the books of their respective depositaries. Such depositaries, in turn, will hold such interests in the applicable Regulation S Global Note in customers' securities accounts in the depositaries' names on the books of DTC.

The Regulation S Global Note may be represented by more than one certificate if so required by DTC's rules regarding the maximum principal amount to be represented by a single certificate. The aggregate principal amount of the Regulation S Global Note may from time to time be increased or decreased by adjustments made on the records of the Trustee, as custodian for DTC or its nominee, as hereinafter provided.

Initial Notes and Additional Restricted Notes resold to IAIs (the "Institutional Accredited Investor Notes") in the United States of America will be issued in the form of a permanent global Note substantially in the form of Exhibit A including appropriate legends as set forth in Section 2.01(d) (the "Institutional Accredited Investor Global Note") deposited with the Trustee, as custodian for DTC, duly executed by the Issuer and authenticated by the Trustee as hereinafter provided. The Institutional Accredited Investor Global Note may be represented by more than one certificate, if so required by DTC's rules regarding the maximum principal amount to be represented by a single certificate. The aggregate principal amount of the Institutional Accredited Investor Global Note may from time to time be increased or decreased by adjustments made on the records of the Trustee, as custodian for DTC or its nominee, as hereinafter provided.

Initial Notes and Additional Restricted Notes resold to AIs in the United States of America will be issued in the form of a Definitive Note substantially in the form of Exhibit A including the legend as set forth in Section 2.01(d) (an "Accredited Investor Note").

The Rule 144A Global Note, the Regulation S Global Note and the Institutional Accredited Investor Global Note are sometimes collectively herein referred to as the "Global Notes."

The principal of, and premium, if any, and interest on the Notes shall be payable at the office or agency of the Paying Agent designated by the Issuer maintained for such purpose (which shall initially be the office of the Trustee maintained for such purpose), or at such other office or agency of the Issuer as may be maintained for such purpose pursuant to Section 2.03; *provided*, *however*, that, at the option of the Paying Agent, payment of interest, if any, may be paid by (i) check mailed to addresses of the Persons entitled thereto as such addresses shall appear on the Notes Register or (ii) wire transfer to an account located in the United States maintained by the payee, subject to the last sentence of this paragraph. Payments in respect of Notes represented by a Global Note (including principal, premium, if any, and interest) will be made by wire transfer of immediately available funds to the accounts specified by DTC. Payments in respect of Notes represented by Definitive Notes (including principal, premium, if any, and interest) held by a Holder of at least $1,000,000 aggregate principal amount of Notes represented by Definitive Notes will be made in accordance with the Notes Register, or by wire transfer to a Dollar account maintained by the payee with a bank in the United States if such Holder elects payment by wire transfer by giving written notice to the Trustee or the Paying Agent to such effect designating such account no later than 15 days immediately preceding the relevant due date for payment (or such other date as the Trustee or Paying Agent, as applicable, may accept in its discretion).

The Notes may have notations, legends or endorsements required by law, stock exchange rule or usage, in addition to those set forth on Exhibit A and in Section 2.01(d). The Issuer shall approve any notation, endorsement or legend on the Notes. Each Note shall be dated the date of its authentication. The terms of the Notes set forth in Exhibit A are part of the terms of this Indenture and, to the extent applicable, the Issuer, the Guarantors and the Trustee, by their execution and delivery of this Indenture, expressly agree to be bound by such terms.

(c) Denominations. The Notes shall be issuable only in fully registered form in minimum denominations of $2,000 and any integral multiple of $1,000 in excess thereof.

(d) Restrictive and Global Note Legends.

(1) Unless and until (i) an Initial Note or an Additional Note issued as a Restricted Note is sold under an effective registration statement or (ii) the Issuer receives an Opinion of Counsel satisfactory to it to the effect that neither such legend nor the related restrictions on transfer are required in order to maintain compliance with the provisions of the Securities Act, the Rule 144A Global Note, the Regulation S Global Note, the Institutional Accredited Investor Global Note and the Accredited Investor Note shall each bear the following legend on the face thereof:

THIS NOTE HAS NOT BEEN REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR THE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION AND, ACCORDINGLY, MAY NOT BE OFFERED OR SOLD WITHIN THE UNITED STATES OR TO, OR FOR THE ACCOUNT OR BENEFIT OF, U.S. PERSONS EXCEPT AS SET FORTH BELOW. BY ITS ACQUISITION HEREOF, THE HOLDER (1) REPRESENTS THAT (A) IT IS A "QUALIFIED INSTITUTIONAL BUYER" (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT) OR (B) IT IS NOT A U.S. PERSON AND IS ACQUIRING THIS NOTE IN AN OFFSHORE TRANSACTION IN COMPLIANCE WITH REGULATION S UNDER THE SECURITIES ACT, (2) AGREES THAT IT WILL NOT WITHIN [**IN THE CASE OF RULE 144A NOTES:** ONE YEAR OR SUCH SHORTER TIME UNDER APPLICABLE LAW] [**IN THE CASE OF REGULATION S NOTES:** 40 DAYS] AFTER THE LATER OF THE ORIGINAL ISSUE DATE HEREOF AND THE LAST DATE ON WHICH THE ISSUER OR ANY AFFILIATE OF THE ISSUER WAS THE OWNER OF THIS NOTE (OR ANY PREDECESSOR OF SUCH NOTE) RESELL OR

OTHERWISE TRANSFER THIS NOTE EXCEPT (A) TO THE ISSUER OR ANY SUBSIDIARY THEREOF, (B) INSIDE THE UNITED STATES TO A QUALIFIED INSTITUTIONAL BUYER IN COMPLIANCE WITH RULE 144A UNDER THE SECURITIES ACT, (C) OUTSIDE THE UNITED STATES IN AN OFFSHORE TRANSACTION IN COMPLIANCE WITH RULE 903 OR RULE 904 UNDER THE SECURITIES ACT, (D) PURSUANT TO THE EXEMPTION FROM REGISTRATION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT (IF AVAILABLE), (E) IN ACCORDANCE WITH ANOTHER EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT (AND BASED UPON AN OPINION OF COUNSEL IF THE ISSUER SO REQUESTS), OR (F) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT AND (3) AGREES THAT IT WILL GIVE TO EACH PERSON TO WHOM THIS NOTE IS TRANSFERRED A NOTICE SUBSTANTIALLY TO THE EFFECT OF THIS LEGEND. AS USED HEREIN, THE TERMS "OFFSHORE TRANSACTION," "UNITED STATES" AND "U.S. PERSON" HAVE THE MEANING GIVEN TO THEM BY REGULATION S UNDER THE SECURITIES ACT.

(2) Each Global Note, whether or not an Initial Note, shall bear the following legend on the face thereof:

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION ("DTC"), NEW YORK, NEW YORK, TO THE ISSUER OR THE AGENT OF THE ISSUER FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

TRANSFERS OF THIS GLOBAL NOTE SHALL BE LIMITED TO TRANSFERS IN WHOLE, BUT NOT IN PART, TO DTC, TO NOMINEES OF DTC OR TO A SUCCESSOR THEREOF OR SUCH SUCCESSOR'S NOMINEE AND TRANSFERS OF PORTIONS OF THIS GLOBAL NOTE SHALL BE LIMITED TO TRANSFERS MADE IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN THE INDENTURE REFERRED TO ON THE REVERSE HEREOF.

THE TERMS OF THIS NOTE ARE SUBJECT TO THE TERMS OF THE FIRST LIEN PARI PASSU INTERCREDITOR AGREEMENT AMONG U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, AS NOTES COLLATERAL AGENT, U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, AS EXISTING NOTES COLLATERAL AGENT, MORGAN STANLEY SENIOR FUNDING, INC., AS AN AUTHORIZED REPRESENTATIVE, AND THE OTHER PARTIES FROM TIME TO TIME PARTY THERETO, ENTERED INTO ON THE SPIN-OFF DATE, AS IT MAY BE AMENDED, RESTATED, SUPPLEMENTED OR OTHERWISE MODIFIED FROM TIME TO TIME IN ACCORDANCE WITH THE INDENTURE.

In the case of the Regulation S Global Note: BY ITS ACQUISITION HEREOF, THE HOLDER HEREOF REPRESENTS THAT IT IS NOT A U.S. PERSON NOR IS IT PURCHASING FOR THE ACCOUNT OF A U.S. PERSON AND IS ACQUIRING THIS NOTE IN AN OFFSHORE TRANSACTION IN ACCORDANCE WITH REGULATION S UNDER THE SECURITIES ACT.

If applicable: THE FOLLOWING INFORMATION IS SUPPLIED SOLELY FOR U.S. FEDERAL INCOME TAX PURPOSES. THIS NOTE WAS ISSUED WITH ORIGINAL ISSUE DISCOUNT ("OID") WITHIN THE MEANING OF SECTION 1273 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED (THE "CODE"), AND THIS LEGEND IS REQUIRED BY SECTION 1275(C) OF THE CODE. HOLDERS MAY OBTAIN INFORMATION REGARDING THE AMOUNT OF OID, THE ISSUE PRICE, THE ISSUE DATE AND THE YIELD TO MATURITY RELATING TO THE NOTES BY CONTACTING THE ISSUER AT 1 BECTON DRIVE, FRANKLIN LAKES, NJ 07417.

(e) Book-Entry Provisions. (i) This Section 2.01(e) shall apply only to Global Notes deposited with the Trustee, as custodian for DTC, and for which the applicable procedures of DTC shall govern.

(1) Each Global Note initially shall (x) be registered in the name of DTC or the nominee of DTC, (y) be delivered to the Notes Custodian for DTC and (z) bear legends as set forth in Section 2.01(d)(2). Transfers of a Global Note (but not a beneficial interest therein) will be limited to transfers thereof in whole, but not in part, to DTC, its successors or its respective nominees, except as set forth in Section 2.01(e)(4) and 2.01(f). If a beneficial interest in a Global Note is transferred or exchanged for a beneficial interest in another Global Note, the Notes Custodian will (x) record a decrease in the principal amount of the Global Note being transferred or exchanged equal to the principal amount of such transfer or exchange and (y) record a like increase in the principal amount of the other Global Note. Any beneficial interest in one Global Note that is transferred to a Person who takes delivery in the form of an interest in another Global Note, or exchanged for an interest in another Global Note, will, upon transfer or exchange, cease to be an interest in such Global Note and become an interest in the other Global Note and, accordingly, will thereafter be subject to all transfer and exchange restrictions, if any, and other procedures applicable to beneficial interests in such other Global Note for as long as it remains such an interest.

(2) Members of, or participants in, DTC ("Agent Members") shall have no rights under this Indenture with respect to any Global Note held on their behalf by DTC or by the Notes Custodian as the custodian of DTC or under such Global Note, and DTC may be treated by the Issuer, the Trustee and any agent of the Issuer or the Trustee as the absolute owner of such Global Note for all purposes whatsoever. Notwithstanding the foregoing, nothing herein shall prevent the Issuer, the Trustee or any agent of the Issuer or the Trustee from giving effect to any written certification, proxy or other authorization furnished by DTC or impair, as between DTC and its Agent Members, the operation of customary practices of DTC governing the exercise of the rights of a holder of a beneficial interest in any Global Note.

(3) In connection with any transfer of a portion of the beneficial interest in a Global Note pursuant to Section 2.01(f) to beneficial owners who are required to hold Definitive Notes, the Notes Custodian shall reflect on its books and records the date and a decrease in the principal amount of such Global Note in an amount equal to the principal amount of the beneficial interest in the Global Note to be transferred, and the Issuer shall execute, and the Trustee shall authenticate and make available for delivery, one or more Definitive Notes of like tenor and amount.

(4) In connection with the transfer of an entire Global Note to beneficial owners pursuant to Section 2.01(f), such Global Note shall be deemed to be surrendered to the Trustee for cancellation, and the Issuer shall execute, and the Trustee shall authenticate and make available for delivery, to each beneficial owner identified by DTC in exchange for its beneficial interest in such Global Note, an equal aggregate principal amount of Definitive Notes of authorized denominations.

(5) The registered Holder of a Global Note may grant proxies and otherwise authorize any person, including Agent Members and persons that may hold interests through Agent Members, to take any action which a Holder is entitled to take under this Indenture or the Notes.

(6) Any Holder of a Global Note shall, by acceptance of such Global Note, agree that transfers of beneficial interests in such Global Note may be effected only through a book-entry system maintained by (i) the Holder of such Global Note (or its agent) or (ii) any holder of a beneficial interest in such Global Note, and that ownership of a beneficial interest in such Global Note shall be required to be reflected in a book entry.

(f) Definitive Notes. Except as provided below, owners of beneficial interests in Global Notes will not be entitled to receive Definitive Notes. Definitive Notes shall be transferred to all beneficial owners in exchange for their beneficial interests in a Global Note if (A) DTC notifies the Issuer that it is unwilling or unable to continue as Depositary for such Global Note or DTC ceases to be a clearing agency registered under the Exchange Act, at a time when DTC is required to be so registered in order to act as depositary, and in each case a successor depositary is not appointed by the Issuer within 90 days of such notice, (B) the Issuer in its sole discretion executes and deliver to the Trustee and Registrar an Officer's Certificate stating that such Global Note shall be so exchangeable or (C) an Event of Default has occurred and is continuing and the Registrar has received a written request from DTC. In the event of the occurrence of any of the events specified in the second preceding sentence or in clause (A), (B) or (C) of the preceding sentence, the Issuer shall promptly make available to the Registrar a reasonable supply of Definitive Notes. In addition, any Note transferred to an affiliate (as defined in Rule 405 under the Securities Act) of the Issuer or evidencing a Note that has been acquired by an affiliate in a transaction or series of transactions not involving any public offering and not involving the initial issuance of Initial Notes must, until one year after the last date on which either the Issuer or any affiliate of the Issuer was an owner of the Note, be in the form of a Definitive Note and bear the legend regarding transfer restrictions in Section 2.01(d)(1). If required to do so pursuant to any applicable law or regulation, beneficial owners may also obtain Definitive Notes in exchange for their beneficial interests in a Global Note upon written request in accordance with DTC's and the Registrar's procedures.

(1) Any Definitive Note delivered in exchange for an interest in a Global Note pursuant to Section 2.01(e) shall, except as otherwise provided by Section 2.06(d), bear the applicable legend regarding transfer restrictions applicable to the Global Note set forth in Section 2.01(d)(1).

(2) If a Definitive Note is transferred or exchanged for a beneficial interest in a Global Note, the Trustee will (x) cancel such Definitive Note, (y) record an increase in the principal amount of such Global Note equal to the principal amount of such transfer or exchange and (z) in the event that such transfer or exchange involves less than the entire principal amount of the canceled Definitive Note, the Issuer shall execute, and the Trustee shall authenticate and make available for delivery, to the transferring Holder a new Definitive Note representing the principal amount not so transferred.

(3) If a Definitive Note is transferred or exchanged for another Definitive Note, (x) the Trustee will cancel the Definitive Note being transferred or exchanged, (y) the Issuer shall execute, and the Trustee shall authenticate and make available for delivery, one or more new Definitive Notes in authorized denominations having an aggregate principal amount equal to the principal amount of such transfer or exchange to the transferee (in the case of a transfer) or the Holder of the canceled Definitive Note (in the case of an exchange), registered in the name of such transferee or Holder, as applicable, and (z) if such transfer or exchange involves less than the entire principal amount of the canceled Definitive Note, the Issuer shall execute, and the Trustee shall authenticate and make available for delivery to the Holder thereof, one or more Definitive Notes in authorized denominations having an aggregate principal amount equal to the untransferred or unexchanged portion of the canceled Definitive Notes, registered in the name of the Holder thereof.

(4) Notwithstanding anything to the contrary in this Indenture, in no event shall a Definitive Note be delivered upon exchange or transfer of a beneficial interest in the Regulation S Global Note prior to the end of the Restricted Period.

SECTION 2.02 Execution and Authentication. One Officer of the Issuer shall sign the Notes for the Issuer by manual, facsimile, PDF or other electronic signature. If the Officer whose signature is on a Note no longer holds that office at the time the Trustee authenticates the Note, the Note shall be valid nevertheless.

A Note shall not be valid until an authorized officer of the Trustee manually authenticates the Note. The signature of the Trustee on a Note shall be conclusive evidence that such Note has been duly and validly authenticated and issued under this Indenture. A Note shall be dated the date of its authentication.

At any time and from time to time after the execution and delivery of this Indenture, the Trustee shall authenticate and make available for delivery: (1) Initial Notes for original issue on the Issue Date in an aggregate principal amount of $200,000,000 and (2) subject to the terms of this Indenture, Additional Notes for original issue in an unlimited principal amount, in each case upon a written order of the Issuer signed by one Officer (the "Issuer Order"). Such Issuer Order shall specify whether the Notes will be in the form of Definitive Notes or Global Notes, the amount of the Notes to be authenticated, the date on which the original issue of Notes is to be authenticated, the Holder of the Notes and whether the Notes are to be Initial Notes or Additional Notes.

The Trustee may appoint an agent (the "Authenticating Agent") reasonably acceptable to the Issuer to authenticate the Notes. Any such appointment shall be evidenced by an instrument signed by a Responsible Officer of the Trustee, a copy of which shall be furnished to the Issuer. Unless limited by the terms of such appointment, any such Authenticating Agent may authenticate Notes whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by the Authenticating Agent. An Authenticating Agent has the same rights as any Registrar, Paying Agent or agent for service of notices and demands.

In case any of the Issuer or any Guarantor, pursuant to Article IV or Section 10.02, as applicable, shall be consolidated or merged with or into any other Person or shall convey, transfer, lease or otherwise dispose of all or substantially all of its assets to any Successor Company, and such Successor Company resulting from such consolidation, or surviving such merger, or into which the Issuer or any Guarantor shall have been merged, or the Person which shall have received such conveyance, transfer, lease or other disposition, as applicable, shall have executed an indenture supplemental hereto with the Trustee pursuant to Article IV, any of the Notes authenticated or delivered prior to such consolidation, merger,

conveyance, transfer, lease or other disposition may (but shall not be required), from time to time, at the request of the Successor Company, be exchanged for other Notes executed in the name of the Successor Company with such changes in phraseology and form as may be appropriate to reflect such Successor Company, but otherwise in substance of like tenor as the Notes surrendered for such exchange and of like principal amount; and the Trustee, upon receipt of an Issuer Order of the Successor Company, shall authenticate and make available for delivery Notes as specified in such order for the purpose of such exchange. If Notes shall at any time be authenticated and delivered in any new name of a Successor Company pursuant to this Section 2.02 in exchange or substitution for or upon registration of transfer of any Notes, such Successor Company, at the option of the Holders but without expense to them, shall provide for the exchange of all Notes at the time outstanding for Notes authenticated and delivered in such new name.

SECTION 2.03 Registrar, Paying Agent and Notes Collateral Agent. The Issuer shall maintain an office or agency where Notes may be presented for registration of transfer or for exchange (the "Registrar") and an office or agency where Notes may be presented for payment. The Registrar shall keep a register of the Notes and of their transfer and exchange (the "Notes Register"). The Issuer may have one or more co-registrars and one or more additional paying agents. The term "Paying Agent" includes any additional paying agent and the term "Registrar" includes any co-registrar.

The Issuer shall enter into an appropriate agency agreement with any Registrar or Paying Agent not a party to this Indenture. The agreement shall implement the provisions of this Indenture that relate to such agent. The Issuer shall notify the Trustee in writing of the name and address of each such agent; *provided* that failure to comply with such notification requirement shall not constitute a Default or an Event of Default. If the Issuer fails to maintain a Registrar or Paying Agent, the Trustee shall act as such and shall be entitled to appropriate compensation therefor pursuant to Section 7.07. The Issuer or any Guarantor may act as Paying Agent, Registrar or transfer agent.

The Issuer initially appoints DTC to act as Depositary with respect to the Global Notes. The Issuer initially appoints the Trustee as Registrar, Paying Agent, Notes Custodian and Notes Collateral Agent for the Notes. The Issuer may change any Registrar, Paying Agent or Notes Collateral Agent without prior notice to the Holders, but upon written notice to such Registrar, Paying Agent or Notes Collateral Agent and to the Trustee; *provided*, *however*, that no such removal shall become effective until (i) acceptance of any appointment by a successor as evidenced by an appropriate agreement entered into by the Issuer and such successor Registrar, Paying Agent or Notes Collateral Agent, as the case may be, and delivered to the Trustee and the passage of any waiting or notice periods required by DTC procedures or (ii) written notification to the Trustee that the Trustee shall serve as Registrar, Paying Agent or Notes Collateral Agent until the appointment of a successor in accordance with clause (i) above. The Registrar, Paying Agent or Notes Collateral Agent may resign at any time upon written notice to the Issuer and the Trustee.

SECTION 2.04 Paying Agent to Hold Money in Trust. By no later than 11:00 a.m. (New York City time) on the date on which any principal of, premium, if any, or interest on any Note is due and payable, the Issuer shall deposit with the Paying Agent a sum sufficient in immediately available funds to pay such principal, premium or interest when due. The Issuer shall require each Paying Agent (other than the Trustee) to agree in writing that such Paying Agent shall hold in trust for the benefit of Holders or the Trustee all money held by such Paying Agent for the payment of principal of, premium, if any, or interest on the Notes (whether such assets have been distributed to it by the Issuer or other obligors on the Notes), shall notify the Trustee in writing of any default by the Issuer or any Guarantor in making any such payment and shall during the continuance of any default by the Issuer (or any other obligor upon the Notes) in the making of any payment in respect of the Notes, upon the written request of the Trustee, forthwith deliver to the Trustee all sums held in trust by such Paying Agent for payment in respect of the Notes

together with a full accounting thereof. If the Issuer or a Subsidiary of the Issuer acts as Paying Agent, it shall segregate the money held by it as Paying Agent and hold it as a separate trust fund. The Issuer at any time may require a Paying Agent (other than the Trustee) to pay all money held by it to the Trustee and to account for any funds or assets disbursed by such Paying Agent. Upon complying with this Section 2.04, the Paying Agent (if other than the Issuer or a Subsidiary of the Issuer) shall have no further liability for the money delivered to the Trustee. Upon any bankruptcy, reorganization or similar proceeding with respect to the Issuer, the Trustee shall serve as Paying Agent for the Notes.

SECTION 2.05 Holder Lists. The Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of Holders. If the Trustee is not the Registrar, the Issuer, on its own behalf and on behalf of each of the Guarantors, shall furnish or cause the Registrar to furnish to the Trustee, in writing at least five (5) Business Days before each interest payment date and at such other times as the Trustee may request in writing, a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of Holders.

SECTION 2.06 Transfer and Exchange.

(a) A Holder may transfer a Note (or a beneficial interest therein) to another Person or exchange a Note (or a beneficial interest therein) for another Note or Notes of any authorized denomination by presenting to the Registrar a written request therefor stating the name of the proposed transferee or requesting such an exchange, accompanied by any certification, opinion or other document required by this Section 2.06. The Registrar will promptly register any transfer or exchange that meets the requirements of this Section 2.06 by noting the same in the Notes Register maintained by the Registrar for the purpose, and no transfer or exchange will be effective until it is registered in such Notes Register. The transfer or exchange of any Note (or a beneficial interest therein) may only be made in accordance with this Section 2.06 and Section 2.01(e) and 2.01(f), as applicable, and, in the case of a Global Note (or a beneficial interest therein), the applicable rules and procedures of DTC, Euroclear and Clearstream. The Registrar shall refuse to register any requested transfer or exchange that does not comply with this paragraph.

(b) Transfers of Rule 144A Notes and Institutional Accredited Investor Notes. The following provisions shall apply with respect to any proposed registration of transfer of a Rule 144A Note or an Institutional Accredited Investor Note prior to the date that is one year after the later of the date of its original issue and the last date on which the Issuer or any Affiliate of the Issuer was the owner of such Notes (or any predecessor thereto) (the "Resale Restriction Termination Date"):

(1) a registration of transfer of a Rule 144A Note or an Institutional Accredited Investor Note or a beneficial interest therein to a QIB shall be made upon the representation of the transferee in the form as set forth on the reverse of the Note that it is purchasing for its own account or an account with respect to which it exercises sole investment discretion and that it and any such account is a "qualified institutional buyer" within the meaning of Rule 144A, and is aware that the sale to it is being made in reliance on Rule 144A and acknowledges that it has received such information regarding the Issuer as the undersigned has requested pursuant to Rule 144A or has determined not to request such information and that it is aware that the transferor is relying upon its foregoing representations in order to claim the exemption from registration provided by Rule 144A; *provided* that no such written representation or other written certification shall be required in connection with the transfer of a beneficial interest in the Rule 144A Global Note to a transferee in the form of a beneficial interest in that Rule 144A Global Note in accordance with this Indenture and the applicable procedures of DTC;

(2) a registration of transfer of a Rule 144A Note or an Institutional Accredited Investor Global Note or a beneficial interest therein to an IAI or an AI shall be made upon receipt by the Registrar or its agent of a certificate substantially in the form set forth in Section 2.08 or Section 2.10, respectively, from the proposed transferee and the delivery of an Opinion of Counsel, certification and/or other information satisfactory to the Issuer; and

(3) a registration of transfer of a Rule 144A Note or an Institutional Accredited Investor Note or a beneficial interest therein to a Non-U.S. Person shall be made upon receipt by the Registrar or its agent of a certificate substantially in the form set forth in Section 2.09 from the proposed transferor and the delivery of an Opinion of Counsel, certification and/or other information satisfactory to the Issuer.

(c) Transfers of Regulation S Notes. The following provisions shall apply with respect to any proposed transfer of a Regulation S Note prior to the expiration of the Restricted Period:

(1) a transfer of a Regulation S Note or a beneficial interest therein to a QIB shall be made upon the representation of the transferee, in the form of assignment on the reverse of the certificate, that it is purchasing the Note for its own account or an account with respect to which it exercises sole investment discretion and that it and any such account is a "qualified institutional buyer" within the meaning of Rule 144A, is aware that the sale to it is being made in reliance on Rule 144A and acknowledges that it has received such information regarding the Issuer as the undersigned has requested pursuant to Rule 144A or has determined not to request such information and that it is aware that the transferor is relying upon its foregoing representations in order to claim the exemption from registration provided by Rule 144A;

(2) a transfer of a Regulation S Note or a beneficial interest therein to an IAI or an AI shall be made upon receipt by the Registrar or its agent of a certificate substantially in the form set forth in Section 2.08 or Section 2.10, respectively, from the proposed transferee and the delivery of an Opinion of Counsel, certification and/or other information satisfactory to the Issuer; and

(3) a transfer of a Regulation S Note or a beneficial interest therein to a Non-U.S. Person shall be made upon receipt by the Registrar or its agent of a certificate substantially in the form set forth in Section 2.09 hereof from the proposed transferor and receipt by the Registrar or its agent of an Opinion of Counsel, certification and/or other information satisfactory to the Issuer.

After the expiration of the Restricted Period, interests in the Regulation S Note may be transferred in accordance with applicable law without requiring the certification set forth in Section 2.09 or any additional certification.

(d) Restricted Notes Legend. Upon the transfer, exchange or replacement of Notes not bearing a Restricted Notes Legend, the Registrar shall deliver Notes that do not bear a Restricted Notes Legend. Upon the transfer, exchange or replacement of Notes bearing a Restricted Notes Legend, the Registrar shall deliver only Notes that bear a Restricted Notes Legend unless (1) an Initial Note is being transferred pursuant to an effective registration statement, (2) [reserved] or (3) there is delivered to the Registrar an Opinion of Counsel reasonably satisfactory to the Issuer to the effect that neither such legend nor the related restrictions on transfer are required in order to maintain compliance with the provisions of the Securities Act. Any Additional Notes sold in a registered offering shall not be required to bear the Restricted Notes Legend.

(e) [Reserved].

(f) Retention of Written Communications. The Registrar shall retain copies of all letters, notices and other written communications received pursuant to Section 2.01 or this Section 2.06. The Issuer shall have the right to inspect and make copies of all such letters, notices or other written communications, at the Issuer's expense, at any reasonable time upon the giving of reasonable prior written notice to the Registrar.

(g) Obligations with Respect to Transfers and Exchanges of Notes. To permit registrations of transfers and exchanges, the Issuer shall, subject to the other terms and conditions of this Article II, execute and the Trustee shall authenticate Definitive Notes and Global Notes at the Issuer's and the Registrar's written request.

No service charge shall be made to a Holder for any registration of transfer or exchange, but the Issuer may require the Holder to pay a sum sufficient to cover any transfer tax assessments or similar governmental charge payable in connection therewith (other than any such transfer taxes, assessments or similar governmental charges payable upon exchange or transfer pursuant to Sections 3.05, 5.06 or 9.05).

The Issuer (and the Registrar) shall not be required to register the transfer of or exchange of any Note (A) for a period beginning (1) fifteen (15) calendar days before the mailing (or electronic delivery) of a notice of an offer to repurchase or redeem Notes and ending at the close of business on the day of such mailing (or electronic delivery) or (2) fifteen (15) calendar days before an interest payment date and ending on such interest payment date or (B) called for redemption, except the unredeemed portion of any Note being redeemed in part.

Prior to the due presentation for registration of transfer of any Note, the Issuer, the Trustee, the Paying Agent, the Notes Collateral Agent or the Registrar may deem and treat the person in whose name a Note is registered as the owner of such Note for the purpose of receiving payment of principal of, premium, if any, and (subject to paragraph 2 of the forms of Notes attached hereto as Exhibit A) interest on such Note and for all other purposes whatsoever, including without limitation the transfer or exchange of such Note, whether or not such Note is overdue, and none of the Issuer, the Trustee, the Paying Agent, the Notes Collateral Agent or the Registrar shall be affected by notice to the contrary.

Any Definitive Note delivered in exchange for an interest in a Global Note pursuant to Section 2.01(f) shall, except as otherwise provided by Section 2.06(d), bear the applicable legend regarding transfer restrictions applicable to the Definitive Note set forth in Section 2.01(d)(1).

All Notes issued upon any transfer or exchange pursuant to the terms of this Indenture shall evidence the same debt and shall be entitled to the same benefits under this Indenture as the Notes surrendered upon such transfer or exchange.

(h) No Obligation of the Trustee. The Trustee shall have no responsibility or obligation to any beneficial owner of a Global Note, a member of, or a participant in, DTC or other Person with respect to the accuracy of the records of DTC or its nominee or of any participant or member thereof, with respect to any ownership interest in the Notes or with respect to the delivery to any participant, member, beneficial owner or other Person (other than DTC) of any notice (including any notice of redemption or purchase) or the payment of any amount or delivery of any Notes (or other security or property) under or with respect to such Notes. All notices and communications to be given to the Holders and all payments to be made to Holders in respect of the Notes shall be given or made only to or upon the order of the registered Holders (which shall be DTC or its nominee in the case of a Global Note). The rights of beneficial owners in any Global Note shall be exercised only through DTC subject to the applicable rules and procedures of DTC. The Trustee may rely and shall be fully protected in relying upon information furnished by DTC with respect to its members, participants and any beneficial owners.

Neither the Registrar nor the Trustee shall have any obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Indenture or under applicable law with respect to any transfer of any interest in any Note (including any transfers between or among DTC participants, members or beneficial owners in any Global Note) other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by, the terms of this Indenture, and to examine the same to determine substantial compliance as to form with the express requirements hereof. Neither the Trustee nor any of its agents shall have any responsibility for any actions taken or not taken by DTC.

SECTION 2.07 [Reserved].

SECTION 2.08 Form of Certificate to be Delivered in Connection with Transfers to IAIs.

[Date]

U.S. Bank Trust Company, National Association
333 Thornall St.
Edison, NJ 08837
Attention: Mark DiGiacomo

Re: Embecta Corp. (the "Issuer")

Ladies and Gentlemen:

This certificate is delivered to request a transfer of $[__] principal amount of the 6.750% Senior Secured Notes due 2030 (the "Notes") of Embecta Corp. (the "Issuer").

Upon transfer, the Notes would be registered in the name of the new beneficial owner as follows:

Name: _____
Address: _____
Taxpayer ID Number: _____

The undersigned represents and warrants to you that:

1. We are an institutional "accredited investor" (as defined in Rule 501(a)(1), (2), (3) or (7) under the Securities Act of 1933, as amended (the "Securities Act")) purchasing for our own account or for the account of such an institutional "accredited investor" of at least $250,000 principal amount of the Notes, and we are acquiring the Notes not with a view to, or for offer or sale in connection with, any distribution in violation of the Securities Act. We have such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risk of our investment in the Notes and we invest in or purchase securities similar to the Notes in the normal course of our business. We and any accounts for which we are acting are each able to bear the economic risk of our or its investment.

2. We understand that the Notes have not been registered under the Securities Act and, unless so registered, may not be sold except as permitted in the following sentence. We agree on our own behalf and on behalf of any investor account for which we are purchasing Notes to offer, sell or otherwise transfer such Notes prior to the date that is one year after the later of the date of original issue and the last date on which the Issuer or any affiliate of the Issuer was the owner of such Notes (or any predecessor thereto) (the "Resale Restriction Termination Date") only (a) to the Issuer or any Subsidiary thereof, (b) pursuant to an effective registration statement under the Securities Act, (c) in a transaction complying with the requirements of Rule 144A under the Securities Act, to a person we reasonably believe is a "qualified institutional buyer" under Rule 144A of the Securities Act (a "QIB") that is purchasing for its own account or for the account of a QIB and to whom notice is given that the transfer is being made in reliance on Rule 144A, (d) pursuant to offers and sales to Non-U.S. Persons that occur outside the United States within the meaning of Regulation S under the Securities Act, (e) to an "accredited investor" within the meaning of Rule 501(a) (1), (2), (3), (4) or (7) under the Securities Act that is purchasing for its own account or for the account of such an institutional "accredited investor," in each case in a minimum principal amount of Notes of $250,000 for investment purposes and not with a view to or for offer or sale in connection with any distribution in violation of the Securities Act or (f) pursuant to any other available exemption from the registration requirements of the Securities Act, subject in each of the foregoing cases to any requirement of law that the disposition of our property or the property of such investor account or accounts be at all times within our or their control and in compliance with any applicable state securities laws. The foregoing restrictions on resale will not apply subsequent to the Resale Restriction Termination Date. If any resale or other transfer of the Notes is proposed to be made pursuant to clause (e) above prior to the Resale Restriction Termination Date, the transferor shall deliver a letter from the transferee substantially in the form of this letter to the Issuer and the Trustee, which shall provide, among other things, that the transferee is an "accredited investor" (within the meaning of Rule 501(a)(1), (2), (3), (4) or (7) under the Securities Act) and that it is acquiring such Notes for investment purposes and not for distribution in violation of the Securities Act. Each purchaser acknowledges that the Issuer and the Trustee reserve the right prior to any offer, sale or other transfer prior to the Resale Termination Date of the Notes pursuant to clauses (d), (e) or (f) above to require the delivery of an opinion of counsel, certifications and/or other information satisfactory to the Issuer.

3. We [are][are not] an Affiliate of the Issuer.

TRANSFEREE: _____

BY: _____

SECTION 2.09 Form of Certificate to be Delivered in Connection with Transfers Pursuant to Regulation S.

[Date]

U.S. Bank Trust Company, National Association

333 Thornall St.
Edison, NJ 08837
Attention: Mark DiGiacomo

Re: Embecta Corp. (the "Issuer")

6.750% Senior Secured Notes due 2030 (the "Notes")

Ladies and Gentlemen:

In connection with our proposed sale of $[_____] aggregate principal amount of the Notes, we confirm that such sale has been effected pursuant to and in accordance with Regulation S ("Regulation S") under the United States Securities Act of 1933, as amended (the "Securities Act"), and, accordingly, we represent that:

(a) the offer of the Notes was not made to a person in the United States;

(b) either (i) at the time the buy order was originated, the transferee was outside the United States or we and any person acting on our behalf reasonably believed that the transferee was outside the United States or (ii) the transaction was executed in, on or through the facilities of a designated off-shore securities market and neither we nor any person acting on our behalf knows that the transaction has been pre-arranged with a buyer in the United States;

(c) no directed selling efforts have been made in the United States in contravention of the requirements of Rule 903(a)(2) or Rule 904(a)(2) of Regulation S, as applicable; and

(d) the transaction is not part of a plan or scheme to evade the registration requirements of the Securities Act.

In addition, if the sale is made during a restricted period and the provisions of Rule 903(b)(2), Rule 903(b)(3) or Rule 904(b)(1) of Regulation S are applicable thereto, we confirm that such sale has been made in accordance with the applicable provisions of Rule 903(b)(2), Rule 903(b)(3) or Rule 904(b)(1), as the case may be.

We also hereby certify that we [are][are not] an Affiliate of the Issuer and, to our knowledge, the transferee of the Notes [is][is not] an Affiliate of the Issuer.

The Trustee and the Issuer are entitled to conclusively rely upon this letter and are irrevocably authorized to produce this letter or a copy hereof to any interested party in any administrative or legal proceedings or official inquiry with respect to the matters covered hereby. Terms used in this certificate and not otherwise defined herein have the meanings set forth in Regulation S.

Very truly yours,

[Name of Transferor]

By: _____
Authorized Signature

SECTION 2.10 Form of Certificate to be Delivered in Connection with Transfers to AIs.

[Date]

U.S. Bank Trust Company, National Association
333 Thornall St.
Edison, NJ 08837
Attention: Mark DiGiacomo

Re: Embecta Corp. (the "Issuer")

Ladies and Gentlemen:

This certificate is delivered to request a transfer of $[__] principal amount of the 6.750% Senior Secured Notes due 2030 (the "Notes") of Embecta Corp. (the "Issuer").

Upon transfer, the Notes would be registered in the name of the new beneficial owner as follows:

Name: _____
Address: _____
Taxpayer ID Number: _____

The undersigned represents and warrants to you that:

1. I am an "accredited investor" (as defined in Rule 501(a)(4) under the U.S. Securities Act of 1933, as amended (the "Securities Act")) and I am acquiring the Notes not with a view to, or for offer or sale in connection with, any distribution in violation of the Securities Act. I have such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risk of my investment in the Notes and I invest in or purchase securities similar to the Notes in the normal course of my business. I am able to bear the economic risk of my investment.

2. I understand that the Notes have not been registered under the Securities Act and, unless so registered, may not be sold except as permitted in the following sentence. I agree on my own behalf to offer, sell or otherwise transfer such Notes prior to the date that is one year after the later of the date of original issue and the last date on which the Issuer or any affiliate of the Issuer was the owner of such Notes (or any predecessor thereto) (the "Resale Restriction Termination Date") only (a) to the Issuer or any Subsidiary thereof, (b) pursuant to an effective registration statement under the Securities Act, (c) in a transaction complying with the requirements of Rule 144A under the Securities Act, to a person I reasonably believe is a "qualified institutional buyer" under Rule 144A of the Securities Act (a "QIB") that is purchasing for its own account or for the account of a QIB and to whom notice is given that the transfer is being made in reliance on Rule 144A, (d) pursuant to offers and sales to Non-U.S. Persons that occur outside the United States within the meaning of Regulation S under the Securities Act, (e) to an institutional "accredited investor" within the meaning of Rule 501(a)(1), (2), (3), (4) or (7) under the Securities Act that is purchasing for its own account or for the account of such an "accredited investor," in each case in a minimum principal amount of Notes of $200,000 for investment purposes and not with a view to or for offer or sale in connection with any distribution in violation of the Securities Act or (f) pursuant to any other available exemption from the registration requirements of the Securities Act, subject in each of the foregoing cases to any requirement of law that the disposition of my property be at all

times within my control and in compliance with any applicable state securities laws. The foregoing restrictions on resale will not apply subsequent to the Resale Restriction Termination Date. If any resale or other transfer of the Notes is proposed to be made pursuant to clause (e) above prior to the Resale Restriction Termination Date, the transferor shall deliver a letter from the transferee substantially in the form of this letter to the Issuer and the Trustee, which shall provide, among other things, that the transferee is an "accredited investor" (within the meaning of Rule 501(a)(1), (2), (3), (4) or (7) under the Securities Act) and that it is acquiring such Notes for investment purposes and not for distribution in violation of the Securities Act. Each purchaser acknowledges that the Issuer and the Trustee reserve the right prior to any offer, sale or other transfer prior to the Resale Termination Date of the Notes pursuant to clauses (d), (e) or (f) above to require the delivery of an opinion of counsel, certifications and/or other information satisfactory to the Issuer.

3. I understand and acknowledge that upon the issuance thereof, and until such time as the same is no longer required under applicable requirements of the Securities Act or state securities laws, the Notes that I acquire will be certificated Notes that will bear, and all certificates issued in exchange therefor or in substitution thereof will bear, a restrictive legend set forth in Section 2.01(d) of the Indenture.

4. I [am][am not] an Affiliate of the Issuer.

TRANSFEREE: _____

BY: _____

SECTION 2.11 Mutilated, Destroyed, Lost or Stolen Notes.

If a mutilated Note is surrendered to the Registrar or if the Holder of a Note claims that the Note has been lost, destroyed or wrongfully taken, the Issuer shall issue and the Trustee shall authenticate a replacement Note if the requirements of Section 8-405 of the UCC are met, such that the Holder (a) satisfies the Issuer and the Trustee that such Note has been lost, destroyed or wrongfully taken within a reasonable time after such Holder has notice of such loss, destruction or wrongful taking and the Registrar has not registered a transfer prior to receiving such notification, (b) makes such request to the Issuer and the Trustee in writing prior to the Note being acquired by a protected purchaser as defined in Section 8-303 of the UCC (a "protected purchaser"), (c) satisfies any other reasonable requirements of the Trustee and (d) provides an indemnity bond, as more fully described below; *provided*, *however*, if after the delivery of such replacement Note, a protected purchaser of the Note for which such replacement Note was issued presents for payment or registration such replaced Note, the Trustee and/or the Issuer shall be entitled to recover such replacement Note from the Person to whom it was issued and delivered or any Person taking therefrom, except a protected purchaser, and shall be entitled to recover upon the security or indemnity provided therefor to the extent of any loss, damage, cost or expense incurred by the Issuer or the Trustee in connection therewith. Such Holder shall furnish an indemnity bond sufficient in the judgment of the (i) Trustee to protect the Trustee and (ii) the Issuer to protect the Issuer, the Trustee, the Paying Agent and the Registrar, from any loss which any of them may suffer if a Note is replaced, and, in the absence of notice to the Issuer, any Guarantor or the Trustee that such Note has been acquired by a protected purchaser, the Issuer shall execute, and upon receipt of an Issuer Order, the Trustee shall authenticate and make available for delivery, in exchange for any such mutilated Note or in lieu of any such destroyed, lost or stolen Note, a new Note of like tenor and principal amount, bearing a number not contemporaneously outstanding.

In case any such mutilated, destroyed, lost or stolen Note has become or is about to become due and payable, the Issuer in its discretion may, instead of issuing a new Note, pay such Note.

Upon the issuance of any new Note under this Section 2.11, the Issuer may require that such Holder pay a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of counsel and of the Trustee) in connection therewith.

Subject to the proviso in the initial paragraph of this Section 2.11, every new Note issued pursuant to this Section 2.11, in lieu of any mutilated, destroyed, lost or stolen Note shall constitute an original additional contractual obligation of the Issuer, any Guarantor (if applicable) and any other obligor upon the Notes, whether or not the mutilated, destroyed, lost or stolen Note shall be at any time enforceable by anyone, and shall be entitled to all benefits of this Indenture equally and proportionately with any and all other Notes duly issued hereunder.

The provisions of this Section 2.11 are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or stolen Notes.

SECTION 2.12 Outstanding Notes. Notes outstanding at any time are all Notes authenticated by the Trustee except for those cancelled by it, those delivered to it for cancellation, those paid pursuant to Section 2.11 and those described in this Section 2.12 as not outstanding. A Note does not cease to be outstanding in the event the Issuer or an Affiliate of the Issuer holds the Note; *provided*, *however*, that (i) for purposes of determining which are outstanding for consent or voting purposes hereunder, the provisions of Section 13.04 shall apply and (ii) in determining whether the Trustee shall be protected in making a determination whether the Holders of the requisite principal amount of outstanding Notes are present at a meeting of Holders of Notes for quorum purposes or have consented to or voted in favor of any request, demand, authorization, direction, notice, consent, waiver, amendment or modification hereunder, or relying upon any such quorum, consent or vote, only Notes which a Responsible Officer of the Trustee actually knows to be held by the Issuer or an Affiliate of the Issuer shall not be considered outstanding.

If a Note is replaced pursuant to Section 2.11 (other than a mutilated Note surrendered for replacement), it ceases to be outstanding unless the Trustee and the Issuer receive proof satisfactory to them that the replaced Note is held by a protected purchaser. A mutilated Note ceases to be outstanding upon surrender of such Note and replacement pursuant to Section 2.11.

If the Paying Agent segregates and holds in trust, in accordance with this Indenture, on a Redemption Date or maturity date, money sufficient to pay all principal, premium, if any, and accrued interest payable on that date with respect to the Notes (or portions thereof) to be redeemed or maturing, as the case may be, and the Paying Agent is not prohibited from paying such money to the Holders on that date pursuant to the terms of this Indenture, then on and after that date such Notes (or portions thereof) cease to be outstanding and interest on them ceases to accrue.

SECTION 2.13 Temporary Notes. In the event that Definitive Notes are to be issued under the terms of this Indenture, until such Definitive Notes are ready for delivery, the Issuer may prepare and the Trustee shall, upon receipt of an Issuer Order, authenticate temporary Notes. Temporary Notes shall be substantially in the form, and shall carry all rights, of Definitive Notes but may have variations that the Issuer considers appropriate for temporary Notes. Without unreasonable delay, the Issuer shall prepare and the Trustee shall, upon receipt of an Issuer Order, authenticate Definitive Notes. After the preparation of Definitive Notes, the temporary Notes shall be exchangeable for Definitive Notes upon surrender of the

temporary Notes at any office or agency maintained by the Issuer for that purpose and such exchange shall be without charge to the Holder. Upon surrender for cancellation of any one or more temporary Notes, the Issuer shall execute, and the Trustee shall, upon receipt of an Issuer Order, authenticate and make available for delivery in exchange therefor, one or more Definitive Notes representing an equal principal amount of Notes. Until so exchanged, the Holder of temporary Notes shall in all respects be entitled to the same benefits under this Indenture as a Holder of Definitive Notes.

SECTION 2.14 Cancellation. The Issuer at any time may deliver Notes to the Trustee for cancellation. The Registrar and the Paying Agent shall forward to the Trustee any Notes surrendered to them for registration of transfer, exchange or payment. The Trustee and no one else shall cancel all Notes surrendered for registration of transfer, exchange, payment or cancellation and dispose of such Notes in accordance with its internal policies and customary procedures (subject to the record retention requirements of the Exchange Act and the Trustee). If the Issuer or any Guarantor acquires any of the Notes, such acquisition shall not operate as a redemption or satisfaction of the Indebtedness represented by such Notes unless and until the same are surrendered to the Trustee for cancellation pursuant to this Section 2.14. The Issuer may not issue new Notes to replace Notes it has paid or delivered to the Trustee for cancellation for any reason other than in connection with a transfer or exchange.

At such time as all beneficial interests in a Global Note have either been exchanged for Definitive Notes, transferred, redeemed, repurchased or canceled, such Global Note shall be returned by DTC to the Trustee for cancellation or retained and canceled by the Trustee. At any time prior to such cancellation, if any beneficial interest in a Global Note is exchanged for Definitive Notes, transferred in exchange for an interest in another Global Note, redeemed, repurchased or canceled, the principal amount of Notes represented by such Global Note shall be reduced and an adjustment shall be made on the books and records of the Trustee (if it is then the Notes Custodian for such Global Note) with respect to such Global Note, by the Trustee or the Notes Custodian, to reflect such reduction.

SECTION 2.15 Payment of Interest; Defaulted Interest. Interest on any Note which is payable, and is punctually paid or duly provided for, on any interest payment date shall be paid to the Person in whose name such Note (or one or more Predecessor Notes) is registered at the close of business on the regular record date for such payment at the office or agency of the Issuer maintained for such purpose pursuant to Section 2.03. Interest on the Notes will be computed on the basis of a 360-day year comprised of twelve 30-day months (and therefore, for the avoidance of doubt, because the Notes will be issued on March 31, 2022 no interest will accrue on March 31, 2022, and the first day on which interest will accrue shall be April 1, 2022).

Any interest on any Note which is payable, but is not paid when the same becomes due and payable and such nonpayment continues for a period of 30 days shall forthwith cease to be payable to the Holder on the regular record date, and such defaulted interest and (to the extent lawful) interest on such defaulted interest at the rate borne by the Notes (such defaulted interest and interest thereon herein collectively called "Defaulted Interest") shall be paid by the Issuer, at its election, as provided in clause (a) or (b) below:

(a) The Issuer may elect to make payment of any Defaulted Interest to the Persons in whose names the Notes (or their respective Predecessor Notes) are registered at the close of business on a Special Record Date (as defined below) for the payment of such Defaulted Interest, which shall be fixed in the following manner. The Issuer shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each Note and the date (not less than 30 days after such notice) of the proposed payment (the "Special Interest Payment Date"), and at the same time the Issuer shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit prior to

the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such Defaulted Interest as in this Section 2.15(a). Thereupon the Issuer shall fix a record date (the "Special Record Date") for the payment of such Defaulted Interest, which date shall be not more than twenty (20) calendar days and not less than fifteen (15) calendar days prior to the Special Interest Payment Date and not less than ten (10) calendar days after the receipt by the Trustee of the notice of the proposed payment. The Issuer shall promptly notify the Trustee in writing of such Special Record Date, and in the name and at the expense of the Issuer, the Trustee shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date and Special Interest Payment Date therefor to be given in the manner provided for in Section 13.01, not less than ten (10) calendar days prior to such Special Record Date. Notice of the proposed payment of such Defaulted Interest and the Special Record Date and Special Interest Payment Date therefor having been so given, such Defaulted Interest shall be paid on the Special Interest Payment Date to the Persons in whose names the Notes (or their respective Predecessor Notes) are registered at the close of business on such Special Record Date and shall no longer be payable pursuant to the provisions in Section 2.15(b).

(b) The Issuer may make payment of any Defaulted Interest in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Notes may be listed, and upon such notice as may be required by such exchange, if, after written notice given by the Issuer to the Trustee of the proposed payment pursuant to this Section 2.15(b), such manner of payment shall be deemed practicable by the Trustee.

Subject to the foregoing provisions of this Section 2.15, each Note delivered under this Indenture upon registration of, transfer of or in exchange for or in lieu of any other Note shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Note.

SECTION 2.16 CUSIP and ISIN Numbers.

The Issuer in issuing the Notes may use "CUSIP" and "ISIN" numbers and, if so, the Trustee shall use "CUSIP" and "ISIN" numbers in notices of redemption or purchase as a convenience to Holders; *provided*, *however*, that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Notes or as contained in any notice of a redemption or purchase and that reliance may be placed only on the other identification numbers printed on the Notes, and any such redemption or purchase shall not be affected by any defect in or omission of such CUSIP and ISIN numbers. The Issuer shall promptly notify the Trustee in writing of any change in the CUSIP and ISIN numbers.

ARTICLE III

COVENANTS

SECTION 3.01 Payment of Notes. The Issuer shall promptly pay the principal of, premium, if any, and interest on the Notes on the dates and in the manner provided in the Notes and in this Indenture. Principal, premium, if any, and interest shall be considered paid on the date due if by 11:00 a.m. New York City time on such date the Trustee or the Paying Agent holds in accordance with this Indenture money sufficient to pay all principal, premium, if any, and interest then due and the Trustee or the Paying Agent, as the case may be, is not prohibited from paying such money to the Holders on that date pursuant to the terms of this Indenture.

The Issuer shall pay interest on overdue principal at the rate specified therefor in the Notes, and it shall pay interest on overdue installments of interest at the same rate to the extent lawful.

Notwithstanding anything to the contrary contained in this Indenture, the Issuer may, to the extent it is required to do so by law, deduct or withhold income or other similar taxes imposed by the United States of America from principal or interest payments hereunder.

SECTION 3.02 Limitation on Indebtedness.

(a) From and after the Spin-Off Date, the Issuer shall not, and shall not permit any of its Restricted Subsidiaries to, incur any Indebtedness (including Acquired Indebtedness); *provided*, *however*, that the Issuer and any Restricted Subsidiary may incur Indebtedness (including Acquired Indebtedness), if on the date of such incurrence and after giving pro forma effect thereto (including pro forma application of the proceeds thereof), either (i) the Fixed Charge Coverage Ratio of the Issuer and its Restricted Subsidiaries is greater than 2.00 to 1.00 or (ii) the Consolidated Total Net Leverage Ratio would have been no greater than 5.25 to 1.00; *provided*, *further*, that Restricted Subsidiaries that are not Guarantors may not incur Indebtedness (including Acquired Indebtedness) under this Section 3.02(a) in excess of, when aggregated with the principal amount of all other Indebtedness (including Acquired Indebtedness) incurred by a Restricted Subsidiary that is not a Guarantor under this Section 3.02(a), after giving pro forma effect to the incurrence of such additional amount of Indebtedness and the application of the proceeds therefrom, the greater of (x) $150.0 million and (y) 30.0% of LTM EBITDA.

(b) Section 3.02(a) will not prohibit the incurrence of the following Indebtedness:

(1) Indebtedness incurred under any Credit Facility (including letters of credit or bankers' acceptances issued or created under any Credit Facility), and Guarantees in respect of such Indebtedness, up to an aggregate principal amount at the time of incurrence not exceeding the sum of (a) $2,150.0 million, (b) the greater of $500.0 million and 100.0% of LTM EBITDA, (c) the Prepayment Amount and (d) any additional amount if after giving pro forma effect to the incurrence of such additional amount and the application of the proceeds therefrom, (X) in the case of Indebtedness that is secured by a Lien on the Collateral on an equivalent priority (but, in each case, without regard to control of remedies) with the Liens on the Collateral securing the Obligations in respect of the Notes, the Consolidated First Lien Net Leverage Ratio would be no greater than (i) 3.10 to 1.00 outstanding at any one time or (ii) to the extent such Indebtedness is incurred or issued to finance an acquisition or Investment, the Consolidated First Lien Net Leverage Ratio immediately prior to the incurrence of such Indebtedness and (Y) in the case of any other Indebtedness, the Consolidated Secured Net Leverage Ratio would be no greater than (i) 3.10 to 1.00 outstanding at any one time or (ii) to the extent such Indebtedness is incurred or issued to finance an acquisition or Investment, the Consolidated Secured Net Leverage Ratio immediately prior to the incurrence of such Indebtedness (with all Indebtedness incurred under this clause (1)(d)(Y) being deemed Consolidated Total Indebtedness secured by a Lien incurred under clause (a) of the definition of "Consolidated Secured Net Leverage Ratio" for all purposes of making the determination under this clause (Y)(ii)), and, in each case, any Refinancing Indebtedness in respect thereof (or successive refinancings thereof that each constitute Refinancing Indebtedness);

(2) Guarantees by the Issuer or any Restricted Subsidiary of Indebtedness or other obligations of the Issuer or any Restricted Subsidiary so long as the incurrence of such Indebtedness or other obligations is not prohibited by the terms of this Indenture;

(3) Indebtedness of the Issuer to any Restricted Subsidiary or Indebtedness of a Restricted Subsidiary to the Issuer or any Restricted Subsidiary; *provided*, *however*, that:

(i) any subsequent issuance or transfer of Capital Stock or any other event which results in any such Indebtedness being held by a Person other than the Issuer or a Restricted Subsidiary, and

(ii) any sale or other transfer of any such Indebtedness to a Person other than the Issuer or a Restricted Subsidiary,

shall be deemed, in each case, to constitute an incurrence of such Indebtedness by the Issuer or such Restricted Subsidiary, as applicable;

(4) Indebtedness represented by (a) the Notes outstanding on the Spin-Off Date, including any Guarantee thereof, (b) any Indebtedness (other than Indebtedness incurred pursuant to clauses (1) and (4)(a) of this Section 3.02(b)) outstanding on the Spin-Off Date and any Guarantees thereof (including the Existing Notes), (c) Refinancing Indebtedness (including with respect to the Notes and any Guarantee thereof) incurred in respect of any Indebtedness described in this clause (4) or clause (2) or (5) of this Section 3.02(b) or incurred pursuant to Section 3.02(a), and (d) Management Advances;

(5) Indebtedness of (x) the Issuer or any Restricted Subsidiary incurred or issued to finance an acquisition or Investment or (y) Persons that are acquired by the Issuer or any Restricted Subsidiary or merged into, amalgamated or consolidated with the Issuer or a Restricted Subsidiary in accordance with the terms of this Indenture (including designating an Unrestricted Subsidiary as a Restricted Subsidiary); *provided* that such Indebtedness is in an aggregate amount not to exceed (i) the greater of (x) $125.0 million and (y) 25.0% of LTM EBITDA at the time of incurrence, plus (ii) unlimited additional Indebtedness if after giving pro forma effect to such acquisition, merger, amalgamation or consolidation, either:

(a) the Issuer would be permitted to incur at least $1.00 of additional Indebtedness pursuant to Section 3.02(a);

(b) either the Fixed Charge Coverage Ratio of the Issuer and its Restricted Subsidiaries would not be lower or the Consolidated Total Net Leverage Ratio of the Issuer and its Restricted Subsidiaries would not be higher, in each case, than it was immediately prior to such acquisition, merger, amalgamation or consolidation; or

(c) such Indebtedness constitutes Acquired Indebtedness (other than Indebtedness incurred in contemplation of the transaction or series of related transactions pursuant to which such Person became a Restricted Subsidiary or was otherwise acquired by the Issuer or a Restricted Subsidiary); *provided* that, in the case of this clause (c), the only obligors with respect to such Indebtedness shall be those Persons who were obligors of such Indebtedness prior to such acquisition, merger, amalgamation or consolidation;

(6) Hedging Obligations (excluding Hedging Obligations which are entered into for speculative purposes);

(7) Indebtedness (i) represented by Capitalized Lease Obligations or Purchase Money Obligations in an aggregate outstanding principal amount which, when taken together with the principal amount of all other Indebtedness incurred pursuant to this clause (7)(i) and then outstanding, does not exceed the greater of (a) $150.0 million and (b) 30.0% of LTM EBITDA at the time of incurrence, and any Refinancing Indebtedness in respect thereof and (ii) arising out of Sale and Leaseback Transactions;

(8) Indebtedness in respect of (a) workers' compensation claims, health, disability or other employee benefits, property, casualty or liability insurance, self-insurance obligations, customer guarantees, performance, indemnity, surety, judgment, bid, appeal, advance payment (including progress premiums), customs, value added or other tax or other guarantees or other similar bonds, instruments or obligations, completion guarantees and warranties or relating to liabilities, obligations or guarantees incurred in the ordinary course of business or consistent with past practice; (b) 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 or consistent with past practice; (c) customer deposits and advance payments (including progress premiums) received from customers for goods or services purchased in the ordinary course of business or consistent with past practice; (d) letters of credit, bankers' acceptances, discounted bills of exchange, discounting or factoring of receivables or payables for credit management purposes, warehouse receipts, guarantees or other similar instruments or obligations issued or entered into, or relating to liabilities or obligations incurred in the ordinary course of business or consistent with past practice; (e) Cash Management Obligations; and (f) Settlement Indebtedness;

(9) Indebtedness arising from agreements providing for guarantees, indemnification, obligations in respect of earn-outs, deferred purchase price or other adjustments of purchase price or, in each case, similar obligations, in each case, incurred or assumed in connection with the acquisition or disposition of any business, assets, a Person (including any Capital Stock of a Subsidiary) or Investment (other than Guarantees of Indebtedness incurred by any Person acquiring or disposing of such business, assets, Person or Investment for the purpose of financing such acquisition or disposition);

(10) [reserved];

(11) Indebtedness of Non-Guarantors in an aggregate principal amount not to exceed (together with the outstanding aggregate principal amount of Indebtedness incurred pursuant to clause (23) below) the greater of (i) $225.0 million and (ii) 45.0% of LTM EBITDA at the time of incurrence, and any Refinancing Indebtedness in respect thereof;

(12) (a) Indebtedness issued by the Issuer or any of its Subsidiaries to any future, present or former employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Issuer or any of its Subsidiaries or any Parent Entity, in each case to finance the purchase or redemption of Capital Stock of the Issuer or any direct or indirect parent thereof that is not prohibited by Section 3.03 and (b) Indebtedness consisting of obligations under deferred compensation or any other similar arrangements incurred in the ordinary course of business, consistent with past practice or in connection with the Transactions, any Investment or any acquisition (by merger, consolidation, amalgamation or otherwise);

(13) Indebtedness of the Issuer or any of its Restricted Subsidiaries consisting of (i) the financing of insurance premiums or (ii) take-or-pay obligations contained in supply arrangements, in each case incurred in the ordinary course of business or consistent with past practice;

(14) Indebtedness in an aggregate outstanding principal amount which, when taken together with the principal amount of all other Indebtedness incurred pursuant to this clause and then outstanding, will not exceed the greater of (i) $250.0 million and (ii) 50.0% of LTM EBITDA and any Refinancing Indebtedness in respect thereof;

(15) Indebtedness in respect of any Qualified Securitization Financing or any Receivables Facility;

(16) any obligation, or guaranty of any obligation, of the Issuer or any Restricted Subsidiary to reimburse or indemnify a Person extending credit to customers of the Issuer or a Restricted Subsidiary incurred in the ordinary course of business or consistent with past practice for all or any portion of the amounts payable by such customers to the Person extending such credit;

(17) Indebtedness to a customer to finance the acquisition of any equipment necessary to perform services for such customer; *provided* that the terms of such Indebtedness are consistent with those entered into with respect to similar Indebtedness prior to the Spin-Off Date, including, if so consistent, that (i) the repayment of such Indebtedness is conditional upon such customer ordering a specific amount or volume, as applicable, of goods or services and (ii) such Indebtedness does not bear interest or provide for scheduled amortization or maturity;

(18) Indebtedness incurred by the Issuer or any of its Restricted Subsidiaries to the extent that the net proceeds thereof are promptly deposited with the Trustee, another trustee or agent to satisfy or discharge the Notes or any other Indebtedness incurred pursuant to this Section 3.02 or exercise the applicable borrower's or issuer's legal defeasance or covenant defeasance, in each case, in accordance with this Indenture or the relevant documents governing such Indebtedness;

(19) Indebtedness of the Issuer or any of its Restricted Subsidiaries arising pursuant to any Permitted Intercompany Activities, Permitted Tax Restructuring and related transactions;

(20) [reserved];

(21) [reserved];

(22) obligations in respect of Disqualified Stock in an amount not to exceed the greater of (i) $50.0 million and (ii) 10.0% of LTM EBITDA outstanding at the time of incurrence;

(23) Indebtedness incurred for the benefit of joint ventures in an aggregate principal amount not to exceed (together with the outstanding aggregate principal amount of Indebtedness incurred pursuant to clause (11) above) the greater of (i) $225.0 million and (ii) 45.0% of LTM EBITDA outstanding at the time of incurrence and any Refinancing Indebtedness in respect thereof;

(24) [reserved]; and

(25) to the extent constituting Indebtedness, Guarantees in the ordinary course of business of the obligations of suppliers, customers, franchisees and licensees of the Issuer and its Subsidiaries.

(c) For purposes of determining compliance with, and the outstanding principal amount of any particular Indebtedness incurred pursuant to and in compliance with, this Section 3.02:

(1) in the event that all or any portion of any item of Indebtedness meets the criteria of more than one of the types of Indebtedness described in Section 3.02(a) and Section 3.02(b), the Issuer, in its sole discretion, shall classify, and may from time to time reclassify pursuant to clause (2) below, such item of Indebtedness (or any portion thereof) and only be required to include the amount and type of such Indebtedness in Section 3.02(a) or one of the clauses of Section 3.02(b);

(2) additionally, all or any portion of any item of Indebtedness may later be reclassified as having been incurred pursuant to any type of Indebtedness described in Section 3.02(a) or (b) so long as such Indebtedness is permitted to be incurred pursuant to such provision and any related Liens are permitted to be incurred at the time of reclassification; *provided* that any Indebtedness incurred pursuant to one of the clauses of Section 3.02(b) shall automatically cease to be deemed incurred or outstanding for purposes of such clause and shall automatically be deemed incurred for the purposes of the Section 3.02(a) from and after the first date on which the Issuer or its Restricted Subsidiaries could have incurred such Indebtedness under Section 3.02(a) without reliance on such clause;

(3) all Indebtedness under the Credit Agreement that is incurred on the Credit Agreement Effective Date and outstanding on the Spin-Off Date shall be deemed incurred on the Credit Agreement Effective Date under Section 3.02(b)(1);

(4) in the case of any Refinancing Indebtedness, when measuring the outstanding amount of such Indebtedness, such amount shall not include the aggregate amount of accrued and unpaid interest, dividends, premiums (including tender premiums), defeasance costs, underwriting discounts, fees, costs and expenses (including original issue discount, upfront fees or similar fees) in connection with such refinancing;

(5) Guarantees of, or obligations in respect of letters of credit, bankers' acceptances or other similar instruments relating to, or Liens securing, Indebtedness that is otherwise included in the determination of a particular amount of Indebtedness shall not be included;

(6) if obligations in respect of letters of credit, bankers' acceptances or other similar instruments are incurred pursuant to any Credit Facility and are being treated as incurred pursuant to Section 3.02(a) or any clause of Section 3.02(b) and the letters of credit, bankers' acceptances or other similar instruments relate to other Indebtedness, then such other Indebtedness shall not be included;

(7) the principal amount of any Disqualified Stock of the Issuer or a Restricted Subsidiary, or Preferred Stock of a Restricted Subsidiary, will be equal to the greater of the maximum mandatory redemption or repurchase price (not including, in either case, any redemption or repurchase premium) or the liquidation preference thereof;

(8) Indebtedness permitted by this Section 3.02 need not be permitted solely by reference to one provision permitting such Indebtedness but may be permitted in part by one such provision and in part by one or more other provisions of this Section 3.02 permitting such Indebtedness;

(9) for all purposes under this Indenture, including for purposes of calculating the Fixed Charge Coverage Ratio, the Consolidated First Lien Net Leverage Ratio, the Consolidated Secured Net Leverage Ratio or the Consolidated Total Net Leverage Ratio, as applicable, in connection with the incurrence, issuance or assumption of any Indebtedness pursuant to Section 3.02(a) or Section 3.02(b) or the incurrence or creation of any Lien pursuant to the definition of "Permitted Liens," the Issuer may elect, at its option, to treat all or any portion of the committed amount of any Indebtedness (and the issuance and creation of letters of credit and bankers' acceptances thereunder) which is to be incurred (or any commitment in respect thereof) or secured by such Lien, as the case may be (any such committed amount elected until revoked as described below, the "Reserved Indebtedness Amount"), as being incurred as of such election date, and, if such Fixed Charge Coverage Ratio, the Consolidated First Lien Net Leverage Ratio, the Consolidated Secured Net Leverage Ratio, the Consolidated Total Net Leverage Ratio or other provision of this Indenture, as applicable, is complied with (or satisfied) with respect thereto on such election date, any subsequent borrowing or reborrowing thereunder (and the issuance and creation of letters of credit and bankers' acceptances thereunder) will be deemed to be permitted under this Indenture, whether or not the Fixed Charge Coverage Ratio, the Consolidated First Lien Net Leverage Ratio, the Consolidated Secured Net Leverage Ratio, the Consolidated Total Net Leverage Ratio or other provision of this Indenture, as applicable, at the actual time of any subsequent borrowing or reborrowing (or issuance or creation of letters of credit or bankers' acceptances thereunder) is complied with (or satisfied) for all purposes (including as to the absence of any continuing Default or Event of Default); *provided* that for purposes of subsequent calculations of the Fixed Charge Coverage Ratio, the Consolidated First Lien Net Leverage Ratio, the Consolidated Secured Net Leverage Ratio, the Consolidated Total Net Leverage Ratio or other provision of this Indenture, as applicable, the Reserved Indebtedness Amount shall be deemed to be outstanding, whether or not such amount is actually outstanding, for so long as such commitments are outstanding or until the Issuer revokes an election of a Reserved Indebtedness Amount;

(10) notwithstanding anything in this Section 3.02 to the contrary, in the case of any Indebtedness incurred to refinance Indebtedness initially incurred in reliance on Section 3.02(b) measured by reference to a percentage of LTM EBITDA at the time of incurrence, if such refinancing would cause the percentage of LTM EBITDA restriction to be exceeded if calculated based on the percentage of LTM EBITDA on the date of such refinancing, such percentage of LTM EBITDA restriction shall not be deemed to be exceeded so long as the principal amount of such refinancing Indebtedness does not exceed the principal amount of such Indebtedness being refinanced, plus accrued and unpaid interest, dividends, premiums (including tender premiums), defeasance costs, underwriting discounts, fees, costs and expenses (including original issue discount, upfront fees or similar fees) in connection with such refinancing; and

(11) the amount of Indebtedness issued at a price that is less than the principal amount thereof will be equal to the amount of the liability in respect thereof determined in accordance with GAAP.

Accrual of interest, accrual of dividends, the accretion of accreted value, the accretion or amortization of original issue discount, the payment of interest in the form of additional Indebtedness, the payment of dividends in the form of additional shares of Preferred Stock or Disqualified Stock or the reclassification of commitments or obligations not treated as Indebtedness due to a change in GAAP, will not be deemed to be an incurrence of Indebtedness for purposes of this Section 3.02.

If at any time an Unrestricted Subsidiary becomes a Restricted Subsidiary, any Indebtedness of such Subsidiary shall be deemed to be incurred by a Restricted Subsidiary as of such date (and, if such Indebtedness is not permitted to be incurred as of such date under this Section 3.02, the Issuer shall be in default of this Section 3.02).

For purposes of determining compliance with any Dollar-denominated restriction on the incurrence of Indebtedness, the Dollar equivalent principal amount of Indebtedness 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, in the case of revolving credit debt; *provided* that, if such Indebtedness is incurred to refinance other Indebtedness denominated in a foreign currency, and such refinancing would cause the applicable Dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such Dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such refinancing Indebtedness does not exceed (a) the principal amount of such Indebtedness being refinanced plus (b) the aggregate amount of accrued and unpaid interest, dividends, premiums (including tender premiums), defeasance costs, underwriting discounts, fees, costs and expenses (including original issue discount, upfront fees or similar fees) in connection with such refinancing.

Notwithstanding any other provision of this Section 3.02, the maximum amount of Indebtedness that the Issuer or a Restricted Subsidiary may incur pursuant to this Section 3.02 shall not be deemed to be exceeded solely as a result of fluctuations in the exchange rate of currencies. The principal amount of any Indebtedness incurred to refinance other Indebtedness, if incurred in a different currency from the Indebtedness being refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such respective Indebtedness is denominated that is in effect on the date of such refinancing.

With respect to any Indebtedness that was permitted to be incurred hereunder on the date of such incurrence, any Increased Amount of such Indebtedness shall also be permitted hereunder after the date of such incurrence.

Unsecured Indebtedness will not be treated under this Indenture as subordinated or junior to Secured Indebtedness merely because it is unsecured. Senior Indebtedness will not be treated under this Indenture as subordinated or junior to any other senior Indebtedness merely because it has a junior priority with respect to the same collateral or is secured by different collateral or because it is guaranteed by different obligors.

SECTION 3.03 Limitation on Restricted Payments.

(a) From and after the Spin-Off Date, the Issuer shall not, and shall not permit any of its Restricted Subsidiaries, directly or indirectly, to:

(1) declare or pay any dividend or make any distribution on or in respect of the Issuer's or any Restricted Subsidiary's Capital Stock (including any such payment in connection with any merger or consolidation involving the Issuer or any of the Restricted Subsidiaries) except:

(i) dividends, payments or distributions payable in Capital Stock of the Issuer (other than Disqualified Stock) or in options, warrants or other rights to purchase such Capital Stock of the Issuer;

(ii) dividends, payments or distributions payable to the Issuer or a Restricted Subsidiary (and, in the case of any such Restricted Subsidiary making such dividend or distribution, to holders of its Capital Stock other than the Issuer or a Restricted Subsidiary on no more than a *pro rata* basis); and

(iii) dividends or distributions payable to any Parent Entity to fund interest payments in respect of Indebtedness of such Parent Entity which is guaranteed by the Issuer or any Restricted Subsidiary;

(2) purchase, repurchase, redeem, retire or otherwise acquire or retire for value any Capital Stock of the Issuer or any Parent Entity held by Persons other than the Issuer or a Restricted Subsidiary;

(3) purchase, repurchase, redeem, defease or otherwise acquire or retire for value, prior to scheduled maturity, scheduled repayment or scheduled sinking fund payment, any Subordinated Indebtedness (other than (i) any such purchase, repurchase, redemption, defeasance or other acquisition or retirement in anticipation of satisfying a sinking fund obligation, principal installment or final maturity, in each case, due within one year of the date of purchase, repurchase, redemption, defeasance or other acquisition or retirement and (ii) any Indebtedness incurred pursuant to Section 3.02(b)(3)); or

(4) make any Restricted Investment;

(any such dividend, distribution, payment, purchase, redemption, repurchase, defeasance, other acquisition, retirement or Restricted Investment referred to in clauses (1) through (4) above are referred to herein as a "Restricted Payment"), if at the time the Issuer or such Restricted Subsidiary makes such Restricted Payment:

(i) other than in the case of (i) a Restricted Payment under Section 3.03(a)(3) or Section 3.03(a)(4), or (ii) amounts attributable to clauses (A) through (E) of the Available Amount Builder Basket set forth below, an Event of Default shall have occurred and be continuing (or would immediately thereafter result therefrom) and, in the case of a Restricted Payment under clauses Section 3.03(a)(3) or Section 3.03(a)(4), an Event of Default described in clauses (1), (2), (7) or (8) of Section 6.01(a) shall have occurred and be continuing (or would immediately thereafter result therefrom); and

(ii) the aggregate amount of such Restricted Payment and all other Restricted Payments made subsequent to the Spin-Off Date (and not returned or rescinded) (including Permitted Payments made pursuant to Section 3.03(b)(1) (without duplication) and Section 3.03(b)(7), but excluding all other Restricted Payments permitted by Section 3.03(b)) would exceed the sum of (without duplication):

(A) 50% of Consolidated Net Income for the period (treated as one accounting period) from the first day of the fiscal quarter in which the Spin-Off Date occurs to the end of the most recent fiscal quarter ending prior to the date of such Restricted Payment for which consolidated financial statements are available (which may, at the Issuer's election, be internal financial statements) (or, in the case such Consolidated Net Income is a deficit, minus 100% of such deficit);

(B) 100% of the aggregate amount of cash, and the fair market value of property or assets or marketable securities, received by the Issuer from the issue or sale of its Capital Stock or as the result of a merger or consolidation with another Person subsequent to the Spin-Off Date or otherwise contributed to the equity (in each case other than through the issuance of Disqualified Stock or Designated Preferred Stock) of the Issuer or a Restricted Subsidiary (including the aggregate principal amount of any Indebtedness of the Issuer or a Restricted Subsidiary contributed to the Issuer or a Restricted Subsidiary for cancellation) or that becomes part of the capital of the Issuer or a Restricted Subsidiary through consolidation or merger subsequent to the Spin-Off Date (other than (x) net cash proceeds or property or assets or marketable securities received from an issuance or sale of such Capital Stock to a Restricted Subsidiary or an employee stock ownership plan or trust established by the Issuer or any of its Subsidiaries for the benefit of their employees to the extent funded by the Issuer or any Restricted Subsidiary, (y) cash or property or assets or marketable securities to the extent that any Restricted Payment has been made from such proceeds in reliance on Section 3.03(b)(6) and (z) Excluded Contributions);

(C) 100% of the aggregate amount of cash, and the fair market value of property or assets or marketable securities, received by the Issuer or any Restricted Subsidiary from the issuance or sale (other than to the Issuer or a Restricted Subsidiary or an employee stock ownership plan or trust established by the Issuer or any of its Subsidiaries for the benefit of their employees to the extent funded by the Issuer or any Restricted Subsidiary) by the Issuer or any Restricted Subsidiary subsequent to the Spin-Off Date of any Indebtedness, Disqualified Stock or Designated Preferred Stock that has been converted into or exchanged for Capital Stock of the Issuer (other than Disqualified Stock or Designated Preferred Stock) plus, without duplication, the amount of any cash, and the fair market value of property or assets or marketable securities, received by the Issuer or any Restricted Subsidiary upon such conversion or exchange;

(D) 100% of the aggregate amount received in cash and the fair market value, as determined in good faith by the Issuer, of marketable securities or other property received by means of: (i) the sale or other disposition (other than to the Issuer or a Restricted Subsidiary) of, or other returns on Investment from, Restricted Investments made by the Issuer or its Restricted Subsidiaries and repurchases and redemptions of, or cash distributions or cash interest received in respect of, such Investments from the Issuer or its Restricted Subsidiaries and repayments of loans or advances, and releases of guarantees, which constitute Restricted Investments by the Issuer or its Restricted Subsidiaries, in each case after the Spin-Off Date; or (ii) the sale or other disposition (other than to the Issuer or a Restricted Subsidiary) of the Capital Stock of an Unrestricted Subsidiary or a dividend, payment or distribution from an Unrestricted Subsidiary (other than to the extent of the amount of the Investment that constituted a Permitted Investment or was made under Section 3.03(b)(17) and will increase the amount available under the applicable clause of the definition of "Permitted Investments" or Section 3.03(b)(17), as the case may be) or a dividend from a Person that is not a Restricted Subsidiary after the Spin-Off Date;

(E) in the case of the redesignation of an Unrestricted Subsidiary as a Restricted Subsidiary or the merger, amalgamation or consolidation of an Unrestricted Subsidiary into the Issuer or a Restricted Subsidiary or the transfer of all or substantially all of the assets of an Unrestricted Subsidiary to the Issuer or a Restricted Subsidiary after the Spin-Off Date, the fair market value of the Investment in such Unrestricted Subsidiary (or the assets transferred), as determined in good faith by the Issuer at the time of the redesignation of such Unrestricted Subsidiary as a Restricted Subsidiary or at the time of such merger, amalgamation or consolidation or transfer of assets (after taking into consideration any Indebtedness associated with the Unrestricted Subsidiary so designated or merged, amalgamated or consolidated or Indebtedness associated with the assets so transferred), other than to the extent of the amount of the Investment that constituted a Permitted Investment or was made under Section 3.03(b)(17) and will increase the amount available under the applicable clause of the definition of "Permitted Investments" or Section 3.03(b)(17), as the case may be; and

(F) the greater of $175.0 million and 35.0% of LTM EBITDA (the foregoing clause (ii), the "Available Amount Builder Basket").

For the avoidance of doubt, the acquisition by and/or transfer to the Issuer and/or any of its Subsidiaries of the Spinco Business and the related transactions in connection with the Spin-Off shall be deemed not to increase the Available Amount Builder Basket.

(b) Section 3.03(a) will not prohibit any of the following (collectively, "Permitted Payments"):

(1) the payment of any dividend or distribution within 60 days after the date of declaration thereof, if at the date of declaration such payment would have complied with the provisions of this Indenture or the redemption, repurchase or retirement of Indebtedness if, at the date of any redemption notice, such payment would have complied with the provisions of this Indenture as if it were and is deemed at such time to be a Restricted Payment at the time of such notice;

(2) (a) any prepayment, purchase, repurchase, redemption, defeasance, discharge, retirement or other acquisition of Capital Stock, including any accrued and unpaid dividends thereon ("Treasury Capital Stock") or Subordinated Indebtedness made by exchange (including any such exchange pursuant to the exercise of a conversion right or privilege in connection with which cash is paid in lieu of the issuance of fractional shares) for, or out of the proceeds of the substantially concurrent sale of, Capital Stock of the Issuer or any Parent Entity to the extent contributed to the Issuer (in each case, other than Disqualified Stock or Designated Preferred Stock) ("Refunding Capital Stock"), (b) the declaration and payment of dividends on Treasury Capital Stock out of the proceeds of the substantially concurrent sale or issuance (other than to a Subsidiary of the Issuer or to an employee stock ownership plan or any trust established by the Issuer or any of its Subsidiaries) of Refunding Capital Stock and (c) if immediately prior to the retirement of Treasury Capital Stock, the declaration and payment of dividends thereon was permitted under Section 3.03(b)(13), 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 Capital Stock of a Parent Entity) in an aggregate amount per year no greater than the aggregate amount of dividends per annum that were declarable and payable on such Treasury Capital Stock immediately prior to such retirement;

(3) any prepayment, purchase, repurchase, exchange, redemption, defeasance, discharge, retirement or other acquisition of Subordinated Indebtedness made by exchange for, or out of the proceeds of the substantially concurrent sale of, Refinancing Indebtedness permitted to be incurred pursuant to Section 3.02;

(4) any prepayment, purchase, repurchase, exchange, redemption, defeasance, discharge, retirement or other acquisition of Preferred Stock of, the Issuer or a Restricted Subsidiary made by exchange for, or out of the proceeds of the substantially concurrent sale of, Preferred Stock of the Issuer or a Restricted Subsidiary, as applicable, that, in each case, is permitted to be incurred pursuant to Section 3.02;

(5) any prepayment, purchase, repurchase, exchange, redemption, defeasance, discharge, retirement or other acquisition of Subordinated Indebtedness of the Issuer or a Restricted Subsidiary or Disqualified Stock or Preferred Stock of a Restricted Subsidiary:

(i) from net cash proceeds to the extent permitted under Section 3.05, but only if the Issuer shall have first complied with Section 3.05 and purchased all Notes tendered pursuant to any offer to repurchase all the Notes required thereby, prior to prepaying, purchasing, repurchasing, redeeming, defeasing, discharging, retiring or otherwise acquiring such Subordinated Indebtedness, Disqualified Stock or Preferred Stock;

(ii) to the extent required by the agreement governing such Subordinated Indebtedness, Disqualified Stock or Preferred Stock, following the occurrence of (i) a Change of Control (or other similar event described therein as a "change of control") or (ii) an Asset Disposition (or other similar event described therein as an "asset disposition" or "asset sale"), but only if the Issuer shall have first complied with Section 3.05 or Section 3.09, as applicable, and purchased all Notes tendered pursuant to the offer to repurchase all the Notes required thereby, prior to purchasing, repurchasing, redeeming, defeasing or otherwise acquiring or retiring such Subordinated Indebtedness, Disqualified Stock or Preferred Stock; or

(iii) consisting of Acquired Indebtedness (other than Indebtedness incurred in connection with or contemplation of such acquisition);

(6) a Restricted Payment to pay for the prepayment, purchase, repurchase, redemption, defeasance, discharge, retirement or other acquisition of Capital Stock of the Issuer or any Parent Entity held by any future, present or former employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Issuer or any of its Subsidiaries or any Parent Entity pursuant to any management equity plan, stock option plan, phantom equity plan or any other management, employee benefit or other compensatory plan or agreement (and any successor plans or arrangements thereto), employment, termination or severance agreement, or any stock subscription or equityholder agreement (including, for the avoidance of doubt, any principal and interest payable on any Indebtedness issued by the Issuer or any Parent Entity in connection with such prepayment, purchase, repurchase, redemption, defeasance, discharge, retirement or other acquisition), including any Capital Stock rolled over, accelerated or paid out by or to any employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Issuer or any of its Subsidiaries or any Parent Entity in connection with any transaction; *provided*, *however*, that the aggregate Restricted Payments made under this clause do not exceed the greater of (i) $25.0 million and (ii) 5.0% of LTM EBITDA in any calendar year (with unused amounts in any calendar year being carried over to the immediately succeeding calendar year); *provided*, *further*, that such amount in any calendar year may be increased by an amount not to exceed:

(i) the cash proceeds from the sale of Capital Stock (other than Disqualified Stock) of the Issuer and, to the extent contributed to the capital of the Issuer, the cash proceeds from the sale of Capital Stock of any Parent Entity, in each case, to any future, present or former employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Issuer or any of its Subsidiaries or any Parent Entity that occurred after the Spin-Off Date, to the extent the cash proceeds from the sale of such Capital Stock have not otherwise been applied to the payment of Restricted Payments by virtue of Section 3.03(a)(4)(ii); *plus*

(ii) the cash proceeds of key man life insurance policies received by the Issuer or its Restricted Subsidiaries (or any Parent Entity to the extent contributed to the Issuer) after the Spin-Off Date; *less*

(iii) the amount of any Restricted Payments made in previous calendar years pursuant to clauses (i) and (ii) of this clause (6);

provided that the Issuer may elect to apply all or any portion of the aggregate increase contemplated by clauses (i) and (ii) of this clause (6) in any fiscal year; *provided*, *further*, that (i) cancellation of Indebtedness owing to the Issuer or any Restricted Subsidiary from any future, present or former employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Issuer or its Restricted Subsidiaries or any Parent Entity in connection with a repurchase of Capital Stock of the Issuer or any Parent Entity and (ii) the repurchase of Capital Stock deemed to occur upon the exercise of options, warrants or similar instruments if such Capital Stock represents all or a portion of the exercise price thereof and payments, in lieu of the issuance of fractional shares of such Capital Stock or withholding to pay other taxes payable in connection therewith, in the case of each of clauses (i) and (ii), will not be deemed to constitute a Restricted Payment for purposes of this Section 3.03 or any other provision of this Indenture;

(7) the declaration and payment of dividends on Disqualified Stock of the Issuer or any of its Restricted Subsidiaries or Preferred Stock of a Restricted Subsidiary, issued in accordance with Section 3.02;

(8) payments made or expected to be made by the Issuer or any Restricted Subsidiary (including payments by the Issuer or any Restricted Subsidiary to a Parent Entity so that such Parent Entity may make payments) in respect of withholding or similar taxes payable in connection with the exercise or vesting of Capital Stock or any other equity award by any future, present or former employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Issuer or any Restricted Subsidiary or any Parent Entity and purchases, repurchases, redemptions, defeasances or other acquisitions or retirements of Capital Stock deemed to occur upon the exercise, conversion or exchange of stock options, warrants, equity-based awards or other rights in respect thereof if such Capital Stock represents a portion of the exercise price thereof or payments in respect of withholding or similar taxes payable upon exercise or vesting thereof;

(9) dividends, loans, advances or distributions to any Parent Entity or other payments by the Issuer or any Restricted Subsidiary in amounts equal to (without duplication):

(i) the amounts required for any Parent Entity to pay any Parent Entity Expenses or any Permitted Tax Amounts;

(ii) amounts constituting or to be used for purposes of making payments to the extent specified in Sections 3.08(b)(2), (3), (5), (11), (12), (13), (15) and (19); and

(iii) [reserved];

(10) (a) the declaration and payment of dividends on the common stock or common equity interests of the Issuer or any Parent Entity (and any equivalent declaration and payment of a distribution of any security exchangeable for such common stock or common equity interests to the extent required by the terms of any such exchangeable securities and any Restricted Payment to any such Parent Entity to fund the payment by such Parent Entity of dividends on such entity's Capital Stock), in an amount in any fiscal year not to exceed $50.0 million (which permitted amount shall increase by 5.0% each year beginning with the first fiscal year after the fiscal year in which the Spin-Off Date occurs); or (b) in lieu of all or a portion of the dividends permitted by clause (a), any prepayment, purchase, repurchase, redemption, defeasance, discharge, retirement or other acquisition of the Issuer's Capital Stock (and any equivalent declaration and payment of a distribution of any security exchangeable for such common stock or common equity interests to the extent required by the terms of any such exchangeable securities and any Restricted Payment to any such Parent Entity to fund the payment by such Parent Entity of dividends on such entity's Capital Stock) for aggregate consideration that, when taken together with dividends permitted by clause (a), does not exceed the amount contemplated by clause (a);

(11) payments by the Issuer, or loans, advances, dividends or distributions to any Parent Entity to make payments, to holders of Capital Stock of the Issuer or any Parent Entity in lieu of the issuance of fractional shares of such Capital Stock; *provided*, *however*, that any such payment, loan, advance, dividend or distribution shall not be for the purpose of evading any limitation of this Section 3.03 or otherwise to facilitate any dividend or other return of capital to the holders of such Capital Stock (as determined in good faith by the Issuer);

(12) Restricted Payments that are made (a) in an amount not to exceed the amount of Excluded Contributions or (b) in an amount equal to the amount of net cash proceeds from an asset sale or disposition in respect of property or assets acquired, if the acquisition of such property or assets was financed with Excluded Contributions;

(13) (i) the declaration and payment of dividends on Designated Preferred Stock of the Issuer or any of its Restricted Subsidiaries issued after the Spin-Off Date; (ii) the declaration and payment of dividends to a Parent Entity in an amount sufficient to allow such Parent Entity to pay dividends to holders of its Designated Preferred Stock issued after the Spin-Off Date; and (iii) the declaration and payment of dividends on Refunding Capital Stock that is Preferred Stock; *provided*, *however*, that, in the case of clause (ii), the amount of dividends paid to a Person pursuant to such clause shall not exceed the cash proceeds received by the Issuer or the aggregate amount contributed in cash to the equity of the Issuer (other than through the issuance of Disqualified Stock or an Excluded Contribution of the Issuer), from the issuance or sale of such Designated Preferred Stock; *provided*, *further*, that, in the case of clauses (i) and (iii), for the most recently ended four fiscal quarters for which consolidated financial statements are available (which may, at the Issuer's election, be internal financial statements) immediately preceding the date of issuance of such Designated Preferred Stock or declaration of such dividends on such Refunding Capital Stock, after giving effect to such payment on a pro forma basis, the Issuer would be permitted to incur at least $1.00 of additional Indebtedness pursuant to the test set forth in Section 3.02(a);

(14) distributions, by dividend or otherwise, or other transfer or disposition of shares of Capital Stock of, or equity interests in, an Unrestricted Subsidiary (or a Restricted Subsidiary that owns one or more Unrestricted Subsidiaries and no other material assets), or Indebtedness owed to the Issuer or a Restricted Subsidiary by an Unrestricted Subsidiary (or a Restricted Subsidiary that owns one or more Unrestricted Subsidiaries and no other material assets), in each case, other than Unrestricted Subsidiaries, substantially all the assets of which are cash and Cash Equivalents or proceeds thereof;

(15) distributions or payments of Securitization Fees, sales contributions and other transfers of Securitization Assets or Receivables Assets and purchases of Securitization Assets or Receivables Assets pursuant to a Securitization Repurchase Obligation, in each case in connection with a Qualified Securitization Financing or Receivables Facility;

(16) any Restricted Payment made in connection with the Transactions (including, for the avoidance of doubt, the Special Payment) and any fees, costs and expenses (including all legal, accounting and other professional fees, costs and expenses) related thereto, including Transaction Costs, or used to fund amounts owed to Affiliates in connection with the Transactions (including dividends to any Parent Entity to permit payment by such Parent Entity of such amounts);

(17) (i) Restricted Payments (including loans or advances) in an aggregate amount outstanding at the time made not to exceed the greater of (a) $175.0 million and (b) 35.0% of LTM EBITDA at such time, and (ii) any Restricted Payments, so long as, (a) immediately after giving pro forma effect to the payment of any such Restricted Payment and the incurrence of any Indebtedness the net proceeds of which are used to make such Restricted Payment, the Consolidated Total Net Leverage Ratio shall be no greater than 2.10 to 1.00 and (b) no Event of Default described in clauses (1), (2), (7) or (8) of Section 6.01(a) shall have occurred or be continuing;

(18) mandatory redemptions of Disqualified Stock issued as a Restricted Payment or as consideration for a Permitted Investment;

(19) (i) the redemption, defeasance, repurchase, exchange or other acquisition or retirement of Subordinated Indebtedness of the Issuer or any Guarantor or the making of any Restricted Investment in an aggregate amount outstanding at the time made, taken together with all other redemptions, defeasances, repurchases, exchanges or other acquisitions or retirements of Subordinated Indebtedness or Restricted Investments made pursuant to this clause, not to exceed the greater of (a) $200.0 million and (b) 40.0% of LTM EBITDA at such time, and (ii), the redemption, defeasance, repurchase, exchange or other acquisition or retirement of Subordinated Indebtedness or Restricted Investments of the Issuer or any Guarantor, so long as, (a) immediately after giving pro forma effect to the payment of any such Restricted Payment and the incurrence of any Indebtedness the net proceeds of which are used to make such Restricted Payment, the Consolidated Total Net Leverage Ratio shall be no greater than 2.60 to 1.00 and (b) no Event of Default described in clauses (1), (2), (7) or (8) of Section 6.01(a) shall have occurred or be continuing;

(20) payments or distributions to dissenting stockholders pursuant to applicable law (including in connection with, or as a result of, exercise of dissenters' or appraisal rights and the settlement of any claims or action (whether actual, contingent or potential)), pursuant to or in connection with a merger, amalgamation, consolidation or transfer of assets that complies with Section 4.01 hereof;

(21) Restricted Payments to a Parent Entity to finance Investments that would otherwise be permitted to be made pursuant to this Section 3.03 if made by the Issuer; *provided* that (a) such Restricted Payment shall be made substantially concurrently with the closing of such Investment (or anytime following the closing of such Investment with respect to earn-out or similar payments), (b) such Parent Entity shall, promptly following the closing thereof, cause (1) all property acquired (whether assets or Capital Stock) to be contributed to the capital of the Issuer or one of its Restricted Subsidiaries or (2) the merger or amalgamation of the Person formed or acquired by or merged or consolidated with the Issuer or one of its Restricted Subsidiaries (to the extent not prohibited by Section 4.01) to consummate such Investment, (c) such Parent Entity and its Affiliates (other than the Issuer or a Restricted Subsidiary) receives no consideration or other payment in connection with such transaction except to the extent the Issuer or a Restricted Subsidiary could have given such consideration or made such payment in compliance with this Indenture, (d) any property received by the Issuer shall not increase amounts available for Restricted Payments pursuant to the Available Amount Builder Basket, except to the extent the fair market value at the time of such receipt of such property exceeds the Restricted Payment made pursuant to this clause and (e) such Investment shall be deemed to be made by the Issuer or such Restricted Subsidiary pursuant to another provision of this Section 3.03 (other than pursuant to Section 3.03(b)(12) hereof) or pursuant to the definition of "Permitted Investments" (other than pursuant to clause (12) thereof);

(22) investments or other Restricted Payments in an aggregate amount not to exceed an amount equal to the sum of Total Leverage Excess Proceeds and Declined Excess Proceeds;

(23) any Restricted Payment made in connection with a Permitted Intercompany Activity, Permitted Tax Restructuring or related transactions; and

(24) any Restricted Payment payable solely in the Capital Stock of any Parent Entity.

For purposes of determining compliance with this Section 3.03, in the event that a Restricted Payment or Investment (or portion thereof) meets the criteria of more than one of the categories of Permitted Payments described in the clauses above, or is permitted pursuant to Section 3.03(a) and/or one or more of the clauses contained in the definition of "Permitted Investments," the Issuer will be entitled to divide or classify (or later divide, classify or reclassify in whole or in part in its sole discretion) such Restricted Payment or Investment (or portion thereof) in any manner that complies with this Section 3.03, including as an Investment pursuant to one or more of the clauses contained in the definition of "Permitted Investments;" *provided* that any Restricted Payment permitted pursuant to any clause of Section 3.03(b) (other than clause (17)(ii) or (19)(ii) of Section 3.03(b), as applicable) shall automatically cease to be deemed permitted or outstanding for purposes of such clause of Section 3.03(b), as applicable, and shall automatically be deemed permitted for the purposes of clause (17)(ii) or (19)(ii) of Section 3.03(b), as applicable, from and after the first date on which the Issuer or its Restricted Subsidiaries could have incurred such Restricted Payment under clause (17)(ii) or (19)(ii) of Section 3.03(b), as applicable, without reliance on such other clause of Section 3.03(b); *provided*, *further*, that any Investment permitted pursuant to one of the clauses of the definition of "Permitted Investments" (other than clause (34)(y) thereof) shall automatically cease to be deemed permitted or outstanding for purposes of such clause of the definition of "Permitted Investments" and shall automatically be deemed permitted for the purposes of clause (34)(y) thereof from and after the first date on which the Issuer or its Restricted Subsidiaries could have incurred such Investment under clause (34)(y) of the definition of "Permitted Investments" without reliance on such other clause of such definition.

The amount of all Restricted Payments (other than cash) shall be the fair market value on the date of such Restricted Payment of the asset(s) or securities proposed to be paid, transferred or issued by the Issuer or such Restricted Subsidiary, as applicable, pursuant to such Restricted Payment. The fair market value of any cash Restricted Payment shall be its face amount, and the fair market value of any non-cash Restricted Payment, property or assets other than cash shall be determined conclusively by the Issuer acting in good faith.

In connection with any commitment, definitive agreement or similar event relating to an Investment, the Issuer or the applicable Restricted Subsidiary may designate such Investment as having occurred on the date of the commitment, definitive agreement or similar event relating thereto (such date, the "Election Date") if, after giving pro forma effect to such Investment and all related transactions in connection therewith and any related pro forma adjustments, the Issuer or any of its Restricted Subsidiaries would have been permitted to make such Investment on the relevant Election Date in compliance with this Indenture, and any related subsequent actual making of such Investment will be deemed for all purposes under this Indenture to have been made on such Election Date, including for purposes of calculating any ratio, compliance with any test, usage of any baskets hereunder (if applicable) and Consolidated EBITDA and for purposes of determining whether there exists any Default or Event of Default (and all such calculations on and after the Election Date until the termination, expiration, passing, rescission, retraction or rescindment of such commitment, definitive agreement or similar event shall be made on a pro forma basis giving effect thereto and all related transactions in connection therewith); *provided* that the foregoing shall not limit the application of Section 1.04(e), to the extent applicable.

If the Issuer or a Restricted Subsidiary makes a Restricted Payment which at the time of the making of such Restricted Payment would in the good faith determination of the Issuer be permitted under the provisions of this Indenture, such Restricted Payment shall be deemed to have been made in compliance with this Indenture notwithstanding any subsequent adjustments made in good faith to the Issuer's financial statements affecting Consolidated Net Income or Consolidated EBITDA of the Issuer for any period.

For the avoidance of doubt, this Section 3.03 shall not restrict the making of, or dividends or other distributions in amounts sufficient to make, any "AHYDO catch-up payment" with respect to any Indebtedness of any Parent Entity, the Issuer or any of its Restricted Subsidiaries permitted to be incurred under this Indenture.

SECTION 3.04 Limitation on Restrictions on Distributions from Guarantors.

(a) From and after the Spin-Off Date, the Issuer shall not, and shall not permit any Guarantor to, create or otherwise cause or permit to exist or become effective any consensual encumbrance or consensual restriction on the ability of any Guarantor to pay dividends or make any other distributions on its Capital Stock; *provided* that (x) the priority of any Preferred Stock in receiving dividends or liquidating distributions prior to dividends or liquidating distributions being paid on common stock and (y) the subordination of (including the application of any standstill requirements to) loans or advances made to the Issuer or any Restricted Subsidiary to other Indebtedness incurred by the Issuer or any Restricted Subsidiary shall not be deemed to constitute such an encumbrance or restriction.

(b) The provisions of Section 3.04(a) shall not prohibit:

(1) any encumbrance or restriction pursuant to (x) the Credit Agreement or (y) any Credit Facility or any other agreement or instrument (including the Existing Notes Indenture), in each case, in effect at or entered into on the Spin-Off Date;

(2) any encumbrance or restriction pursuant to the Note Documents;

(3) any encumbrance or restriction pursuant to applicable law, rule, regulation or order;

(4) any encumbrance or restriction pursuant to an agreement or instrument of a Person or relating to any Capital Stock or Indebtedness of a Person, entered into on or before the date on which such Person was acquired by or merged, consolidated or otherwise combined with or into the Issuer or any Restricted Subsidiary, or was designated as a Restricted Subsidiary or on which such agreement or instrument is assumed by the Issuer or any Restricted Subsidiary in connection with an acquisition of assets (other than Capital Stock or Indebtedness incurred as consideration in, or to provide all or any portion of the funds utilized to consummate, the transaction or series of related transactions pursuant to which such Person became a Restricted Subsidiary or was acquired by the Issuer or was merged, consolidated or otherwise combined with or into the Issuer or any Restricted Subsidiary or entered into in contemplation of or in connection with such transaction) and outstanding on such date; *provided* that, for the purposes of this clause (4), if another Person is the Successor Company, any Subsidiary of such Person or agreement or instrument of such Person or any such Subsidiary shall be deemed acquired or assumed by the Issuer or any Restricted Subsidiary when such Person becomes the Successor Company;

(5) any encumbrance or restriction:

(i) that restricts in a customary manner the subletting, assignment or transfer of any property or asset that is subject to a lease, license or similar contract or agreement, or the assignment or transfer of any lease, license or other contract or agreement;

(ii) contained in mortgages, pledges, charges or other security agreements permitted under this Indenture or securing Indebtedness of the Issuer or a Restricted Subsidiary permitted under this Indenture to the extent such encumbrances or restrictions restrict the transfer or encumbrance of the property or assets subject to such mortgages, pledges, charges or other security agreements;

(iii) contained in any trading, netting, operating, construction, service, supply, purchase, sale or other agreement to which the Issuer or any of its Restricted Subsidiaries is a party entered into in the ordinary course of business or consistent with past practice; *provided* that such agreement prohibits the encumbrance of solely the property or assets of the Issuer or such Restricted Subsidiary that are subject to such agreement, the payment rights arising thereunder or the proceeds thereof and does not extend to any other asset or property of the Issuer or such Restricted Subsidiary or the assets or property of another Restricted Subsidiary; or

(iv) pursuant to customary provisions restricting dispositions of real property interests set forth in any reciprocal easement agreements of the Issuer or any Restricted Subsidiary;

(6) any encumbrance or restriction pursuant to Purchase Money Obligations and Capitalized Lease Obligations permitted under this Indenture, in each case, that impose encumbrances or restrictions on the property so acquired;

(7) any encumbrance or restriction imposed pursuant to an agreement entered into for the direct or indirect sale or disposition to a Person of all or substantially all the Capital Stock or assets of the Issuer or any Restricted Subsidiary (or the property or assets that are subject to such restriction) pending the closing of such sale or disposition;

(8) customary provisions in leases, licenses, equityholder agreements, joint venture agreements, organizational documents and other similar agreements and instruments;

(9) encumbrances or restrictions arising or existing by reason of applicable law or any applicable rule, regulation or order, or required by any regulatory authority;

(10) any encumbrance or restriction on cash or other deposits or net worth imposed by customers under agreements entered into in the ordinary course of business or consistent with past practice;

(11) any encumbrance or restriction pursuant to Hedging Obligations;

(12) other Indebtedness, Disqualified Stock or Preferred Stock of Non-Guarantors permitted to be incurred or issued subsequent to the Spin-Off Date pursuant to Section 3.02 that impose restrictions solely on the Non-Guarantors party thereto and/or their Subsidiaries;

(13) restrictions created in connection with any Qualified Securitization Financing or Receivables Facility that, in the good faith determination of the Issuer, are necessary or advisable to effect such Securitization Facility or Receivables Facility;

(14) any encumbrance or restriction arising pursuant to an agreement or instrument relating to any Indebtedness permitted to be incurred subsequent to the Spin-Off Date pursuant to Section 3.02 if (i) the encumbrances and restrictions contained in any such agreement or instrument taken as a whole are not materially less favorable to the Holders than the encumbrances and restrictions contained in the Credit Agreement, together with the security documents associated therewith, or this Indenture as in effect on the Spin-Off Date or (ii) either (A) the Issuer determines at the time of entry into such agreement or instrument that such encumbrances or restrictions will not adversely affect, in any material respect, the Issuer's ability to make principal or interest payments on the Notes or (B) such encumbrance or restriction applies only during the continuance of a default in respect of a payment relating to such agreement or instrument;

(15) any encumbrance or restriction existing by reason of any lien permitted under Section 3.06;

(16) any encumbrance or restriction arising pursuant to the Transaction Documents; or

(17) any encumbrance or restriction pursuant to an agreement or instrument effecting a refinancing of Indebtedness incurred pursuant to, or that otherwise refinances, an agreement or instrument referred to in the clauses above or this clause (17) (an "Initial Agreement") or contained in any amendment, supplement or other modification to an agreement referred to in the clauses above or this clause (17); *provided*, *however*, that the encumbrances and restrictions with respect to such Restricted Subsidiary contained in any such agreement or instrument are no less favorable in any material respect to the Holders taken as a whole than the encumbrances and restrictions contained in the Initial Agreement or Initial Agreements to which such refinancing or amendment, supplement or other modification relates (as determined in good faith by the Issuer).

SECTION 3.05 Limitation on Sales of Assets and Subsidiary Stock.

(a) From and after the Spin-Off Date, the Issuer shall not, and shall not permit any of its Restricted Subsidiaries to, make any Asset Disposition unless:

(1) the Issuer or such Restricted Subsidiary, as applicable, receives consideration (including by way of relief from, or by any other Person assuming responsibility for, any liabilities, contingent or otherwise) at least equal to the fair market value (such fair market value to be determined on the date of contractually agreeing to such Asset Disposition), as determined in good faith by the Issuer, of the shares and assets subject to such Asset Disposition (including, for the avoidance of doubt, if such Asset Disposition is a Permitted Asset Swap);

(2) in any such Asset Disposition, or series of related Asset Dispositions (except to the extent the Asset Disposition is a Permitted Asset Swap), with a purchase price in excess of the greater of (x) $100.0 million and (y) 20.0% of LTM EBITDA, at least 75% of the consideration from such Asset Disposition, together with all other Asset Dispositions since the Spin-Off Date as to which this clause (2) applies (on a cumulative basis), received by the Issuer or such Restricted Subsidiary, as applicable, is in the form of cash or Cash Equivalents; *provided* that, for purposes of this clause (2), the following shall be deemed to be cash:

(i) the assumption by the transferee of Indebtedness or other liabilities (including by way of relief from, or by any other Person assuming responsibility for, any such Indebtedness or other liabilities, contingent or otherwise) of the Issuer or a Restricted Subsidiary (other than Subordinated Indebtedness of the Issuer or a Guarantor) or the release of the Issuer or such Restricted Subsidiary from all liability on such Indebtedness or other liability in connection with such Asset Disposition;

(ii) securities, notes or other obligations or other property received by the Issuer or any Restricted Subsidiary from the transferee that are converted by the Issuer or such Restricted Subsidiary into cash or Cash Equivalents, or by their terms are required to be satisfied for cash and Cash Equivalents (to the extent of the cash or Cash Equivalents received), in each case, within 365 days following the closing of such Asset Disposition;

(iii) Indebtedness of any Restricted Subsidiary that is no longer a Restricted Subsidiary as a result of such Asset Disposition, to the extent that, immediately following such Asset Disposition, neither the Issuer nor any other Restricted Subsidiary guarantees the payment of such Indebtedness;

(iv) consideration consisting of Indebtedness of the Issuer (other than Subordinated Indebtedness) received after the Spin-Off Date from Persons who are not the Issuer or any Restricted Subsidiary; and

(v) any Designated Non-Cash Consideration received by the Issuer or any Restricted Subsidiary in such Asset Dispositions having an aggregate fair market value, taken together with all other Designated Non-Cash Consideration received pursuant to this covenant that is at that time outstanding, not to exceed the greater of (x) $150.0 million and (y) 30.0% of LTM EBITDA, 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; and

(3) within 540 days from the later of (A) the date of such Asset Disposition and (B) the receipt of the Net Available Cash from such Asset Disposition (as may be extended by an Acceptable Commitment as set forth below, the "Proceeds Application Period"), an amount equal to the Applicable Percentage of such Net Available Cash (the "Applicable Proceeds") is applied, to the extent the Issuer or any Restricted Subsidiary, as applicable, elects:

(i) (a) to reduce, prepay, repay or purchase any Obligations under the Notes (at a price equal to or greater than the aggregate principal amount of notes purchased) or any other First Lien Obligations (and, in the case of revolving obligations, to correspondingly permanently reduce commitments with respect thereto); *provided*, *however*, that (x) to the extent that the terms of such First Lien Obligations (other than Additional Notes) require Applicable Proceeds to repay Obligations outstanding under such First Lien Obligations prior to the repayment of other First Lien Obligations, the Issuer or such Restricted Subsidiary shall be entitled to repay such Obligations prior to repaying Obligations under the Notes and (y) except as provided in the foregoing subclause (x), to the extent the Issuer or such Restricted Subsidiary so reduces any other First Lien Obligations, the Issuer will either (1) reduce Obligations under the Notes on a pro rata basis by, at its option, (A) redeeming notes as described under Section 5.07 or (B) purchasing notes through open market purchases at a price equal to or greater than the aggregate principal amount of notes purchased, or (2) make an offer (in accordance with the procedures set forth below for an Asset Disposition Offer) to all Holders to purchase their notes on a ratable basis with such other First Lien Obligations for no less than 100% of the principal amount thereof, plus the amount of accrued but unpaid interest, if any, thereon; (b) solely to the extent such Applicable Proceeds are not derived from an Asset Disposition of Collateral, to reduce any other Pari Passu Indebtedness; *provided* that if the Issuer or any Restricted Subsidiary shall so repay any Pari Passu Indebtedness other than the Notes, the Issuer will either (1) reduce Obligations under the Notes on a pro rata basis by, at its option, (A) redeeming notes as described under Section 5.07, or (B) purchasing notes through open market purchases at a price equal to or greater than the aggregate principal amount of notes purchased, or (2) make an offer (in accordance with the procedures set forth below for an Asset Disposition Offer) to all Holders to purchase their notes on a ratable basis with such other Pari Passu Indebtedness for no less than 100% of the principal amount thereof, plus the amount of accrued but unpaid interest, if any, thereon; or (c) to reduce, prepay, repay or purchase any Indebtedness of a Non-Guarantor (in each case, other than Indebtedness owed to the Issuer or any Restricted Subsidiary); *provided* that to the extent the Issuer or any Restricted Subsidiary makes an offer to reduce, prepay, repay or purchase any obligations pursuant to the foregoing clauses (a) through (c) at a price no less than 100% of the principal amount thereof, to the extent the relevant creditors do not accept such offering, the Issuer and the Restricted Subsidiaries will be deemed to have applied an amount of the Applicable Proceeds equal to such amount not so accepted in such offer, and such amount shall not increase the amount of Excess Proceeds (and such amount shall instead constitute Declined Excess Proceeds); *provided*, *however*, that, in connection with any reduction, prepayment, repayment or purchase of Indebtedness pursuant to this clause (i), the Issuer or such Restricted Subsidiary will retire such Indebtedness and will cause the related commitment (other than obligations in respect of any asset-based credit facility to the extent the assets sold or otherwise disposed of in connection with such Asset Disposition constituted "borrowing base assets") to be reduced in an amount equal to the principal amount so reduced, prepaid, repaid or purchased;

(ii) (a) to invest (including capital expenditures) in or commit to invest in Additional Assets (including by means of an investment in Additional Assets by a Restricted Subsidiary); or (b) to invest (including capital expenditures) in any one or more businesses, properties or assets that replace the businesses, properties and/or assets that are the subject of such Asset Disposition, with any such investment made by way of a capital or other lease valued at the present value of the minimum amount of payments under such lease (as reasonably determined by the Issuer); *provided*, *however*, that a binding agreement shall be treated as a permitted application of Applicable Proceeds from the date of such commitment with the good faith expectation that an amount equal to Applicable Proceeds will be applied to satisfy such commitment within 180 days after the end of such 540-day period (an "Acceptable Commitment") that such investment is completed;

(iii) to make any other Permitted Investment; or

(iv) any combination of the foregoing;

provided that (1) pending the final application of the amount of any such Applicable Proceeds pursuant to this Section 3.05, the Issuer or the applicable Restricted Subsidiaries may apply such Applicable Proceeds temporarily to reduce Indebtedness (including under the Credit Facilities) or otherwise apply such Applicable Proceeds in any manner not prohibited by this Indenture, and (2) the Issuer (or any Restricted Subsidiary, as applicable) may elect to invest in Additional Assets prior to receiving the Applicable Proceeds attributable to any given Asset Disposition (*provided* that such investment shall be made no earlier than the earliest of notice to the Trustee of the relevant Asset Disposition, execution of a definitive agreement for the relevant Asset Disposition, and consummation of the relevant Asset Disposition) and deem the amount so invested to be applied pursuant to and in accordance with clause (ii) above with respect to such Asset Disposition.

If, with respect to any Asset Disposition, at the expiration of the Proceeds Application Period with respect to such Asset Disposition, there remains Applicable Proceeds in excess of the greater of (i) $125.0 million and (ii) 25.0% of LTM EBITDA (such amount of Applicable Proceeds that are equal to the greater of (i) $125.0 million and (ii) 25.0% of LTM EBITDA, "Declined Excess Proceeds," and such amount of Applicable Proceeds that are in excess of the greater of (i) $125.0 million and (ii) 25.0% of LTM EBITDA, "Excess Proceeds"), then subject to the limitations with respect to Foreign Dispositions set forth below, the Issuer shall make an offer (an "Asset Disposition Offer") no later than ten (10) Business Days after the expiration of the Proceeds Application Period to all Holders of Notes and, if required by the terms of any First Lien Obligations, to all holders of such Pari Passu Indebtedness, to purchase the maximum principal amount of such Notes and First Lien Obligations, as appropriate, on a pro rata basis, that may be purchased out of such Excess Proceeds, if any, at an offer price, in the case of the Notes, in cash in an amount equal to 100% of the principal amount thereof (or in the event such other Indebtedness was issued with original issue discount, 100% of the accreted value thereof), plus accrued and unpaid interest, if any (or such lesser price with respect to First Lien Obligations, if any, as may be provided by the terms of such other Indebtedness), to, but not including, the date fixed for the closing of such offer, in accordance with the procedures set forth in this Indenture and the agreement governing the First Lien Obligations, as applicable, in minimum denominations of $2,000 and in integral multiples of $1,000 in excess thereof. Notices of an Asset Disposition Offer shall be sent by first-class mail or sent electronically, at least 10 days but not more than 60 days before the purchase date to each Holder of the Notes at such Holder's registered

address, with a copy to the Trustee, or otherwise in accordance with the applicable procedures of DTC. The Issuer may satisfy the foregoing obligation with respect to the Applicable Proceeds by making an Asset Disposition Offer prior to the expiration of the Proceeds Application Period (the "Advance Offer") with respect to all or a part of the Applicable Proceeds (the "Advance Portion") in advance of being required to do so by this Indenture.

(b) To the extent that the aggregate amount (or accreted value, as applicable) of Notes and, if applicable, any other First Lien Obligations validly tendered or otherwise surrendered in connection with an Asset Disposition Offer made with Excess Proceeds (or, in the case of an Advance Offer, the Advance Portion) is less than the amount offered in an Asset Disposition Offer, the Issuer may include any remaining Excess Proceeds (or, in the case of an Advance Offer, the Advance Portion) in Declined Excess Proceeds, and use such Declined Excess Proceeds for any purpose not otherwise prohibited by this Indenture. If the aggregate principal amount (or accreted value, as applicable) of the Notes or, if applicable, First Lien Obligations validly tendered pursuant to any Asset Disposition Offer exceeds the amount of Excess Proceeds (or, in the case of an Advance Offer, the Advance Portion), the Issuer shall allocate the Excess Proceeds among the Notes and First Lien Obligations to be purchased on a pro rata basis on the basis of the aggregate principal amount (or accreted value, as applicable) of tendered Notes and First Lien Obligations; *provided* that no Notes or other First Lien Obligations will be selected and purchased in an unauthorized denomination. Upon completion of any Asset Disposition Offer, the amount of Applicable Proceeds and Excess Proceeds shall be reset at zero.

To the extent that any portion of Net Available Cash or Applicable Proceeds payable in respect of the Notes is denominated in a currency other than Dollars, the amount thereof payable in respect of the Notes shall not exceed the net amount of funds in Dollars that is actually received by the Issuer upon converting such portion into Dollars.

(c) Notwithstanding any other provisions of this Section 3.05, (i) to the extent that any of or all the Net Available Cash or Applicable Proceeds of any Asset Disposition is received or deemed to be received by a Non-U.S. Subsidiary (or a U.S. Subsidiary of a Non-U.S. Subsidiary) (a "Foreign Disposition") giving rise to a prepayment event described above is (x) prohibited, restricted or delayed by applicable local law, rule or regulation (including, without limitation, (a) financial assistance and corporate benefit restrictions and (b) fiduciary and statutory duties of any director or officer of such Subsidiaries), (y) restricted by applicable organizational documents or any agreement or (z) subject to other onerous organizational or administrative impediments, in each case, from being repatriated or otherwise paid to the Issuer or so prepaid, or such repatriation or payment 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 Available Cash so affected will not be required to be applied in compliance with this Section 3.05; and (ii) to the extent that the Issuer has determined in good faith that repatriation of any of or all the Net Available Cash of any Foreign Disposition could have an adverse Tax consequence (which for the avoidance of doubt, includes, but is not limited to, any prepayment out of such Net Available Cash whereby doing so the Issuer, any of its Subsidiaries, any Parent Entity or any of their respective affiliates and/or equity owners would incur a Tax liability, including a taxable dividend) (as determined by the Issuer), an amount equal to the Net Available Cash so affected will not be required to be applied in compliance with this Section 3.05. The non-application of any prepayment amounts as a consequence of the foregoing provisions will not, for the avoidance of doubt, constitute a Default or an Event of Default.

(d) To the extent that the provisions of any securities laws or regulations, including Rule 14e-1 under the Exchange Act, conflict with the provisions of this Indenture, the Issuer shall not be deemed to have breached its obligations described in this Indenture by virtue of compliance therewith. The Issuer may rely on any no-action letters issued by the SEC indicating that the staff of the SEC will not recommend enforcement action in the event a tender offer satisfies certain conditions.

(e) The provisions of this Indenture relative to the Issuer's obligation to make an offer to repurchase the Notes as a result of an Asset Disposition may be amended, supplemented, waived or modified with the written consent of the Holders of a majority in principal amount of the Notes then outstanding.

SECTION 3.06 Limitation on Liens. From and after the Spin-Off Date, the Issuer shall not, and shall not permit any Guarantor to, directly or indirectly, create, incur or permit to exist any Lien (except Permitted Liens) (each, an "Initial Lien") that secures obligations under any Indebtedness, on any asset or property of the Issuer or any Guarantor, except, in the case of any assets that do not constitute Collateral, any Initial Lien if the Notes and related Guarantees are secured equally and ratably on any such assets or property of the Issuer or any Guarantor with (or prior to) such Indebtedness secured by such Lien, except that the foregoing shall not apply to Liens securing the Notes and the related Guarantees.

Any Lien created for the benefit of the Holders pursuant to the last clause of the preceding sentence shall provide by its terms that such Lien shall be automatically and unconditionally released and discharged upon the release and discharge of the Initial Lien.

With respect to any Lien that was permitted to secure such Indebtedness at the time of the incurrence of such Indebtedness, such Lien shall also be permitted to secure any Increased Amount of such Indebtedness.

SECTION 3.07 Limitation on Guarantees.

(a) From and after the Spin-Off Date, the Issuer shall not permit any of its Wholly Owned Subsidiaries that are Restricted Subsidiaries, other than a Guarantor or an Excluded Subsidiary, to incur Indebtedness for borrowed money under or Guarantee the payment of (i) any syndicated Credit Facility of the Issuer or any other Subsidiary Guarantor incurred pursuant to Section 3.02(b)(1) or (ii) capital markets debt securities of the Issuer or any other Subsidiary Guarantor, in each case, in a principal amount in excess of the greater of $150.0 million and 10.0% of LTM EBITDA, unless:

(1) such Restricted Subsidiary within ninety (90) days executes and delivers a supplemental indenture to this Indenture substantially in the form attached hereto as Exhibit B providing for a Guarantee by such Restricted Subsidiary (together with such Notes Security Documents, or amendments or supplements thereto and such other documentation as shall be necessary to provide for valid and perfected Liens on such Restricted Subsidiary's assets of the type constituting Collateral to secure such Guarantee on the terms described under Article XII), except that with respect to a guarantee of Indebtedness of the Issuer or any Guarantor, if such Indebtedness is by its express terms subordinated in right of payment to the Notes or such Guarantor's Guarantee, any such guarantee by such Restricted Subsidiary with respect to such Indebtedness shall be subordinated in right of payment to such Guarantee substantially to the same extent as such Indebtedness is subordinated to the Notes or such Guarantor's Guarantee of the Notes; and

(2) such Restricted Subsidiary waives and will not in any manner whatsoever claim or take the benefit or advantage of, any rights of reimbursement, indemnity or subrogation or any other rights against the Issuer or any other Restricted Subsidiary as a result of any payment by such Restricted Subsidiary under its Guarantee until payment in full of Obligations under this Indenture;

provided that this Section 3.07 shall not be applicable (i) to any Indebtedness or guarantee of any Restricted Subsidiary that existed at the time such Person became a Restricted Subsidiary and was not incurred in connection with, or in contemplation of, such Person becoming a Restricted Subsidiary, or (ii) in the event that the Guarantee of the Issuer's obligations under the Notes or this Indenture by such Subsidiary would not be permitted under applicable law.

(b) The Issuer may elect, in its sole discretion, to cause or allow, as the case may be, any Subsidiary of the Issuer or any of its Parent Entities that is not otherwise required to be a Guarantor to become a Guarantor, in which case, (i) such Subsidiary or Parent Entity shall not be required to comply with the 90-day period described in Section 3.07(a) and (ii) such Guarantee may be released at any time in the Issuer's sole discretion so long as any Indebtedness of such Subsidiary then outstanding could have been incurred by such Subsidiary (either (x) when so incurred or (y) at the time of the release of such Guarantee) and such Subsidiary is not otherwise required to be a Guarantor at the time of such release accordance with the provisions above.

(c) If any Guarantor becomes an Immaterial Subsidiary, the Issuer shall have the right, by delivery of a supplemental indenture executed by the Issuer to the Trustee and the Notes Collateral Agent, to cause such Immaterial Subsidiary to automatically and unconditionally cease to be a Guarantor (and any Liens on its assets securing such Guarantee to be automatically and unconditionally released), subject to the requirement described in Section 3.07(a) above that such Subsidiary shall be required to become a Guarantor if it ceases to be an Immaterial Subsidiary (except that if such Subsidiary has been properly designated as an Unrestricted Subsidiary it shall not be so required to become a Guarantor or execute a supplemental indenture); *provided* that such Immaterial Subsidiary shall not be permitted to Guarantee the Credit Agreement or other Indebtedness of the Issuer or the other Guarantors, unless it again becomes a Guarantor.

(d) Each such Guarantee shall also be released in accordance with the provisions of this Indenture described under Article X.

SECTION 3.08 Limitation on Affiliate Transactions.

(a) From and after the Spin-Off Date, the Issuer shall not, and shall not permit any Restricted Subsidiary to enter into or conduct any transaction (including the purchase, sale, lease or exchange of any property or the rendering of any service) with any Affiliate of the Issuer (an "Affiliate Transaction") involving value in excess of the greater of (i) $25.0 million and (ii) 5.0% of LTM EBITDA unless:

(1) the terms of such Affiliate Transaction, taken as a whole, are not materially less favorable to the Issuer or such Restricted Subsidiary, as applicable, than those that could be obtained in a comparable transaction at the time of such transaction or the execution of the agreement providing for such transaction in arm's length dealings with a Person who is not such an Affiliate; and

(2) in the event such Affiliate Transaction involves an aggregate value in excess of the greater of (i) $75.0 million and (ii) 15.0% of LTM EBITDA, the terms of such transaction have been approved by a majority of the members of the Board of Directors of the Issuer.

Any Affiliate Transaction shall be deemed to have satisfied the requirements set forth in clause (2) of this Section 3.08(a) if such Affiliate Transaction is approved by a majority of the Disinterested Directors of the Issuer, if any.

(b) The provisions of Section 3.08(a) above shall not apply to:

(1) any Restricted Payment or other transaction permitted to be made or undertaken pursuant to Section 3.03 (including Permitted Payments) or any Permitted Investment;

(2) any issuance, transfer or sale of (a) Capital Stock, options, other equity-related interests or other securities, or other payments, awards or grants in cash, securities or otherwise to any Parent Entity or future, current or former employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Issuer or any of its Subsidiaries or any of its Parent Entities and (b) directors' qualifying shares and shares issued to foreign nationals as required under applicable law;

(3) any Management Advances and any waiver or transaction with respect thereto;

(4) (a) any transaction between or among the Issuer and any Restricted Subsidiary (or entity that becomes a Restricted Subsidiary as a result of such transaction), or between or among Restricted Subsidiaries and (b) any merger, amalgamation or consolidation with any Parent Entity, *provided* that such Parent Entity shall have no material liabilities and no material assets other than cash, Cash Equivalents and the Capital Stock of the Issuer and such merger, amalgamation or consolidation is otherwise not prohibited under this Indenture;

(5) the payment of compensation, fees, costs, reimbursements and expenses to, and indemnities (including under insurance policies) and reimbursements, employment and severance arrangements, and employee benefit and pension expenses provided on behalf of, or for the benefit of, future, current or former employees, directors, officers, managers, contractors, consultants, distributors or advisors (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Issuer, any Parent Entity or any Restricted Subsidiary (whether directly or indirectly and including through their Controlled Investment Affiliates or Immediate Family Members);

(6) the entry into and performance of obligations of the Issuer or any of its Restricted Subsidiaries under the terms of any transaction arising out of, and any payments pursuant to or for purposes of funding, any agreement or instrument in effect as of or on the Spin-Off Date, as these agreements and instruments may be amended, modified, supplemented, extended, renewed or refinanced from time to time in accordance with the other terms of this Section 3.08 or to the extent not disadvantageous in any material respect in the reasonable determination of the Issuer to the Holders when taken as a whole as compared to the applicable agreement as in effect on the Spin-Off Date;

(7) any transaction effected as part of a Qualified Securitization Financing or Receivables Facility, any disposition or acquisition of Securitization Assets, Receivables Assets or related assets in connection with any Qualified Securitization Financing or Receivables Facility;

(8) transactions with customers, vendors, clients, joint venture partners, suppliers, contractors, distributors or purchasers or sellers of goods or services, in each case in the ordinary course of business or consistent with past practice, which are fair to the Issuer or its Restricted Subsidiaries, in the reasonable determination of the Issuer, or are on terms, taken as a whole, that are not materially less favorable as might reasonably have been obtained at such time from an unaffiliated party;

(9) any transaction between or among the Issuer or any Restricted Subsidiary (or any entity that becomes a Restricted Subsidiary as a result of such transaction) or joint venture (regardless of the form of legal entity) in which the Issuer or any Subsidiary has invested (and which Subsidiary or joint venture would not be an Affiliate of the Issuer but for the Issuer's or a Subsidiary's ownership of Equity Interests in such joint venture or Subsidiary);

(10) any issuance, sale or transfer of Capital Stock (other than Disqualified Stock or Designated Preferred Stock) of the Issuer, any Parent Entity or any of its Restricted Subsidiaries or options, warrants or other rights to acquire such Capital Stock and the granting of registration and other customary rights (and the performance of the related obligations) in connection therewith or any contribution to capital of the Issuer or any Restricted Subsidiary;

(11) [reserved];

(12) [reserved];

(13) the Transactions and the payment of all fees, costs and expenses (including all legal, accounting and other professional fees, costs and expenses) related to the Transactions, including Transaction Costs;

(14) transactions in which the Issuer or any Restricted Subsidiary, as applicable, delivers to the Trustee a letter from an Independent Financial Advisor stating that such transaction is fair to the Issuer or such Restricted Subsidiary from a financial point of view or meets the requirements of Section 3.08(a)(1);

(15) the existence of, or the performance by the Issuer or any Restricted Subsidiary of its obligations under the terms of, any equityholders, investor rights or similar agreement (including any registration rights agreement or purchase agreements related thereto) to which it is party as of the Spin-Off Date and any similar agreement that it (or any Parent Entity) may enter into thereafter; *provided* that the existence of, or the performance by the Issuer or any Restricted Subsidiary (or any Parent Entity) of its obligations under any future amendment to any such existing agreement or under any similar agreement entered into after the Spin-Off Date will only be permitted under this clause to the extent that the terms of any such amendment or new agreement are not otherwise, when taken as a whole, more disadvantageous to the Holders in any material respect in the reasonable determination of the Issuer than those in effect on the Spin-Off Date;

(16) any purchases by Affiliates of the Issuer of Indebtedness or Disqualified Stock of the Issuer or any of the Restricted Subsidiaries the majority of which Indebtedness or Disqualified Stock is purchased by Persons who are not Affiliates of the Issuer; *provided* that such purchases by Affiliates of the Issuer are on the same terms as such purchases by such Persons who are not Affiliates of the Issuer;

(17) (i) investments by Affiliates in securities or loans of the Issuer or any of its Restricted Subsidiaries (and payment of reasonable out-of-pocket expenses incurred by such Affiliates in connection therewith) so long as the investment is being offered by the Issuer or such Restricted Subsidiary generally to other non-affiliated third party investors on the same or more favorable terms and (ii) payments to Affiliates in respect of securities or loans of the Issuer or any of its Restricted Subsidiaries contemplated in the foregoing subclause (i) or that were acquired from Persons other than the Issuer and its Restricted Subsidiaries, in each case, in accordance with the terms of such securities or loans;

(18) payments by any Parent Entity, the Issuer or its Subsidiaries pursuant to any tax sharing agreements or other agreements in respect of Permitted Tax Amounts among any such Parent Entity, the Issuer and/or its Subsidiaries on customary terms to the extent attributable to the ownership or operation of the Issuer and its Subsidiaries;

(19) payments, Indebtedness and Disqualified Stock (and cancellation of any thereof) of the Issuer and its Restricted Subsidiaries and Preferred Stock (and cancellation of any thereof) of any Restricted Subsidiary to any future, current or former employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Issuer, any of its Subsidiaries or any of its Parent Entities pursuant to any management equity plan, stock option plan, phantom equity plan or any other management, employee benefit or other compensatory plan or agreement (and any successor plans or arrangements thereto), employment, termination or severance agreement, or any stock subscription or equityholder agreement with any such employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members) that are, in each case, approved by the Issuer in good faith;

(20) any management equity plan, stock option plan, phantom equity plan or any other management, employee benefit or other compensatory plan or agreement (and any successor plans or arrangements thereto), employment, termination or severance agreement, or any stock subscription or equityholder agreement between the Issuer or its Restricted Subsidiaries and any distributor, employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members) approved by the reasonable determination of the Issuer or entered into in connection with the Transactions;

(21) any transition services arrangement, supply arrangement or similar arrangement entered into in connection with or in contemplation of the disposition of assets or Capital Stock in any Restricted Subsidiary permitted under Section 3.05 or entered into with any Business Successor, in each case, that the Issuer determines in good faith is either fair to the Issuer or otherwise on customary terms for such type of arrangements in connection with similar transactions;

(22) transactions entered into by an Unrestricted Subsidiary with an Affiliate prior to the day such Unrestricted Subsidiary is redesignated as a Restricted Subsidiary as described in Section 3.20 and pledges of Capital Stock of Unrestricted Subsidiaries;

(23) (i) any lease entered into between the Issuer or any Restricted Subsidiary, as lessee, and any Affiliate of the Issuer, as lessor and (ii) any operational services or other arrangement entered into between the Issuer or any Restricted Subsidiary and any Affiliate of the Issuer, in each case, which is approved by the reasonable determination of the Issuer;

(24) intellectual property licenses and research and development agreements in the ordinary course of business or consistent with past practice;

(25) payments to or from, and transactions with, any Subsidiary or any joint venture in the ordinary course of business or consistent with past practice (including any cash management arrangements or activities related thereto);

(26) the payment of fees, costs and expenses related to registration rights and indemnities provided to equityholders pursuant to equityholders, investor rights, registration rights or similar agreements;

(27) transactions undertaken in the ordinary course of business pursuant to membership in a purchasing consortium; and

(28) Permitted Intercompany Activities, Permitted Tax Restructurings, Intercompany License Agreements and related transactions.

In addition, if the Issuer or any of its Restricted Subsidiaries (i) purchases or otherwise acquires assets or properties from a Person which is not an Affiliate, the purchase or acquisition by an Affiliate of the Issuer of an interest in all or a portion of the assets or properties acquired shall not be deemed an Affiliate Transaction (or cause such purchase or acquisition by the Issuer or such Restricted Subsidiary to be deemed an Affiliate Transaction) or (ii) sells or otherwise disposes of assets or other properties to a Person who is not an Affiliate, the sale or other disposition by an Affiliate of the Issuer of an interest in all or a portion of the assets or properties sold shall not be deemed an Affiliate Transaction (or cause such sale or other disposition by the Issuer or such Restricted Subsidiary to be deemed an Affiliate Transaction).

SECTION 3.09 Change of Control.

(a) If a Change of Control occurs, unless a third party makes a Change of Control Offer or the Issuer has previously or substantially concurrently therewith delivered a redemption notice with respect to all the outstanding Notes as set forth under Section 5.07, the Issuer shall make an offer to purchase all of the Notes pursuant to the offer described below (the "Change of Control Offer") at a price in cash (the "Change of Control Payment") equal to 101% of the aggregate principal amount thereof plus accrued and unpaid interest, if any, to, but excluding, the applicable date of repurchase; *provided* that if the repurchase date is on or after the record date and on or before the corresponding interest payment date, then Holders in whose names the Notes are registered at the close of business on such record date will receive the interest due on the repurchase date. Within 30 days following any Change of Control, the Issuer shall deliver or cause to be delivered a notice of such Change of Control Offer electronically in accordance with the applicable procedures of DTC or by first-class mail, with a copy to the Trustee, to each Holder of Notes at the address of such Holder appearing in the security register or otherwise in accordance with the applicable procedures of DTC, with the following information:

(1) a description of the transaction or transactions that constitute the Change of Control;

(2) that a Change of Control Offer is being made pursuant to this Section 3.09, and that all Notes properly tendered pursuant to such Change of Control Offer will be accepted for payment by the Issuer;

(3) the purchase price and the purchase date, which will be no earlier than 10 days and no later than 60 days from the date such notice is delivered (the "Change of Control Payment Date"), except in the case of a conditional Change of Control Offer as described below;

(4) that any Note not properly tendered will remain outstanding and continue to accrue interest;

(5) that unless the Issuer defaults in the payment of the Change of Control Payment, all Notes accepted for payment pursuant to the Change of Control Offer will cease to accrue interest on the Change of Control Payment Date;

(6) that Holders electing to have any Notes purchased pursuant to a Change of Control Offer will be required to surrender such Notes, with the form entitled "Option of Holder to Elect Purchase" on the reverse of such Notes completed, to the applicable Paying Agent specified in the notice at the address specified in the notice prior to the close of business on the third Business Day preceding the Change of Control Payment Date, or otherwise comply with DTC procedures;

(7) that Holders will be entitled to withdraw their tendered Notes and their election to require the Issuer to purchase such Notes; *provided* that the applicable Paying Agent receives, not later than the close of business on the second Business Day prior to the expiration date of the Change of Control Offer, a telegram, facsimile transmission or letter setting forth the name of the Holder of the Notes, the principal amount of Notes tendered for purchase, and a statement that such Holder is withdrawing its tendered Notes and its election to have such Notes purchased, or otherwise comply with DTC procedures;

(8) that Holders whose Notes are being purchased only in part will be issued new Notes and such new Notes will be equal in principal amount to the unpurchased portion of the Notes surrendered. The unpurchased portion of the Notes must be equal to at least $2,000 or any integral multiple of $1,000 in excess of $2,000;

(9) if such notice is delivered prior to the occurrence of a Change of Control, stating that the Change of Control Offer is conditional on the occurrence of such Change of Control; and

(10) the other instructions, as determined by the Issuer, consistent with this Section 3.09, that a Holder must follow.

The applicable Paying Agent will promptly deliver to each Holder of the Notes tendered the Change of Control Payment for such Notes, and the Trustee will promptly authenticate and mail (or cause to be transferred by book-entry) to each Holder a new Note equal in principal amount to any unpurchased portion of the Notes surrendered, if any; *provided* that each such new Note will be in a minimum principal amount of $2,000 or an integral multiple of $1,000 in excess thereof. The Issuer will publicly announce the results of the Change of Control Offer on or as soon as practicable after the Change of Control Payment Date.

If the Change of Control Payment Date is on or after an interest record date and on or before the related interest payment date, any accrued and unpaid interest will be paid on the Change of Control Payment Date to the Person in whose name a Note is registered at the close of business on such record date.

(b) On the Change of Control Payment Date, the Issuer will, to the extent permitted by law,

(1) accept for payment all Notes issued by it or portions thereof properly tendered pursuant to the Change of Control Offer,

(2) deposit with the applicable Paying Agent an amount equal to the aggregate Change of Control Payment in respect of all Notes or portions thereof so tendered, and

(3) deliver, or cause to be delivered, to the Trustee for cancellation the Notes so accepted together with an Officer's Certificate to the Trustee stating that such Notes or portions thereof have been tendered to and purchased by the Issuer.

(c) The Issuer will not be required to make a Change of Control Offer following a Change of Control if (x) a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in this Indenture applicable to a Change of Control Offer made by the Issuer and purchases all Notes validly tendered and not withdrawn under such Change of Control Offer or (y) a notice of redemption of all outstanding Notes has been given pursuant to Section 5.07 hereof unless and until there is a default in the payment of the redemption price on the applicable redemption date or the redemption is not consummated due to the failure of a condition precedent contained in the applicable redemption notice to be satisfied.

(d) Notwithstanding anything to the contrary in this Section 3.09, a Change of Control Offer may be made in advance of a Change of Control, conditional upon such Change of Control, on analogous terms as those described in the penultimate paragraph of Section 5.03.

(e) [Reserved]

(f) While the Notes are in global form and the Issuer makes an offer to purchase all of the Notes pursuant to the Change of Control Offer, a Holder may exercise its option to elect for the purchase of the Notes through the facilities of DTC, subject to its rules and regulations.

(g) The Issuer will comply, to the extent applicable, with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws, rules and regulations thereunder to the extent such laws or regulations are applicable in connection with the repurchase of the Notes pursuant to a Change of Control Offer. To the extent that the provisions of any securities laws, rules or regulations conflict with the provisions of this Indenture, the Issuer shall be deemed to have breached its obligations described in this Indenture by virtue of compliance therewith. The Issuer may rely on any no-action letters issued by the SEC indicating that the staff of the SEC will not recommend enforcement action in the event a tender offer satisfies certain conditions.

(h) The provisions of this Indenture relative to the Issuer's obligation to make an offer to repurchase the Notes as a result of a Change of Control may be amended, supplemented, waived or modified with the written consent of the Holders of a majority in principal amount of the Notes then outstanding.

SECTION 3.10 Reports.

(a) From and after the Spin-Off Date, the Issuer shall furnish to the Trustee, within 15 days after the time periods specified below:

(1) within 125 days after the end of each fiscal year (or 150 days with respect to the first fiscal year for which annual financial statements are required to be delivered pursuant to this clause (1)) (or if such day is not a Business Day, on the next succeeding Business Day) of the Issuer, a consolidated balance sheet of the Issuer 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, starting with the second fiscal year for which annual financial statements are required to be delivered pursuant to this clause (1), 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 any independent certified public accountant of nationally recognized standing, which report and opinion shall be prepared in accordance with generally accepted auditing standards; and

(2) within 65 days (or 75 days with respect to each of the first three fiscal quarters for which quarterly financial statements are required to be delivered pursuant to this clause (2)) after the end of each of the first three fiscal quarters of each fiscal year of the Issuer (or if such day is not a Business Day, on the next succeeding Business Day), a consolidated balance sheet of the Issuer and its Subsidiaries as at the end of such fiscal quarter, and the related consolidated statements of income or operations and cash flows for such fiscal quarter and for the portion of the fiscal year then ended, setting forth in each case, starting only with the first delivery required to be made pursuant to this clause (2) which occurs after a full year of financial statements have previously been delivered pursuant to clauses (1) and (2), 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 in accordance with GAAP;

in each case, except as described above or below and subject to exceptions consistent with the presentation of information in the Offering Memorandum; *provided*, *however*, that the Issuer shall not be required to (A) provide (i) segment reporting and disclosure (including any required by FASB Accounting Standards Codification Topic 280), (ii) separate financial statements or other information contemplated by Rules 3-05, 3-09, 3-10, 3-16, Rule 13-01 and Rule 13-02 or 4-08of Regulation S-X (or any successor provisions) or any schedules required by Regulation S-X, (iii) information required by Regulation G under the Exchange Act or Item 10, Item 302, Item 402 or Item 601 of Regulation S-K (or any successor provision), (iv) XBRL exhibits, (v) earnings per share information, (vi) information regarding executive compensation and related party disclosure related to SEC Release Nos. 33-8732A, 34-54302A and IC-27444A, (vii) other information customarily excluded from an offering memorandum, including any information that is not otherwise of the type and form currently included in the Offering Memorandum relating to the Notes, (viii) purchase accounting adjustments relating to the Transactions or any other transactions permitted under this Indenture to the extent it is not practicable to include any such adjustments in such financial statements and (ix) following the consummation of an acquisition in the applicable period or the period thereafter, the obligations in clauses (1) and (2) above, with respect to the target of such acquisition may be satisfied by, at the option of the Issuer, (x) furnishing management accounts for the target of such acquisition or (y) omitting the target of such acquisition from the required financial statements of the Issuer and its Subsidiaries for the applicable period and the period thereafter or (B) (i) comply with Sections 302, 906 and 404 of the Sarbanes-Oxley Act of 2002, as amended, or (ii) otherwise furnish any information, certificates or reports required by Items 307 or 308 of Regulation S-K (or any successor provision).

(3) To the extent any such information is not so filed or furnished, as applicable, within the time periods specified above and such information is subsequently filed or furnished, as applicable, the Issuer will be deemed to have satisfied its obligations with respect thereto at such time and any Default with respect thereto shall be deemed to have been cured; *provided* that such cure shall not otherwise affect the rights of the Holders under Section 6.01 if Holders of at least 30% in principal amount of the outstanding Notes have declared the principal, premium, if any, interest and any other monetary obligations on all the outstanding notes to be due and payable immediately and such declaration shall not have been rescinded or cancelled prior to such cure.

(b) The Issuer shall furnish to Holders and to securities analysts and prospective investors, upon their request, the information of the Issuer required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act.

(c) Substantially concurrently with the furnishing or making of such information available to the Trustee pursuant to Section 3.10(a), the Issuer shall also use its commercially reasonable efforts to post copies of such information required by the immediately preceding paragraph on a website (which may be nonpublic and may be maintained by the Issuer, its Subsidiaries or a third party) to which access will be given to Holders, bona fide prospective investors in the Notes (which prospective investors may be limited to "qualified institutional buyers" within the meaning of Rule 144A of the Securities Act or Non-U.S. Persons (as defined in Regulation S under the Securities Act) that certify their status as such to the reasonable satisfaction of the Issuer), and securities analysts (to the extent providing analysis of an investment in the Notes) and market making financial institutions that are reasonably satisfactory to the Issuer who agree to treat such information and reports as confidential; *provided* that the Issuer or its Subsidiaries, as applicable, may deny access to any competitively-sensitive information and reports otherwise to be provided pursuant to this covenant to any person that is a competitor of the Issuer and its Subsidiaries to the extent that the Issuer determines in good faith that the provision of such information and reports to such Person would be competitively harmful to the Issuer and its Subsidiaries. The Issuer may condition the delivery of any such reports on the agreement of such Persons to (i) treat all such reports (and the information contained therein) and information as confidential, (ii) not use such reports (and the information contained therein) and information for any purpose other than their investment or potential investment in the Notes and (iii) not publicly disclose any such reports (and the information contained therein) and information.

(d) If the Issuer has designated any of its Subsidiaries as an Unrestricted Subsidiary, and such Unrestricted Subsidiary would, if taken as a whole with all other Unrestricted Subsidiaries, constitute a Material Subsidiary, then the annual and quarterly information required by Section 3.10(a)(1) and (a)(2) shall include a presentation, either on the face of the financial statements or in footnotes thereto, to reflect the adjustments which would be necessary to eliminate the accounts of Unrestricted Subsidiaries from such financial statements (and which presentation, for the avoidance of doubt, need not be audited).

(e) The Issuer may satisfy its obligations pursuant to this Section 3.10 with respect to financial information relating to the Issuer by furnishing financial information relating to a Parent Entity; *provided* that the same is accompanied by consolidating information that explains in reasonable detail the differences between the information relating to such Parent Entity (and other Parent Entities included in such information, if any), on the one hand, and the information relating to the Issuer and its Restricted Subsidiaries on a standalone basis, on the other hand. For the avoidance of doubt, the consolidating information referred to in the proviso in the preceding sentence need not be audited.

(f) Notwithstanding anything to the contrary set forth in this Section 3.10, (i) if the Issuer or any Parent Entity has furnished to the Holders of Notes the reports described in this Section 3.10 with respect to the Issuer or any Parent Entity, the Issuer shall be deemed to be in compliance with the provisions of this Section 3.10 and (ii) the Issuer will be deemed to have furnished the reports referred to in this covenant to the Trustee and the holders if the Issuer has filed such reports or other reports or filings which contain the information contemplated herein with the SEC via the EDGAR filing system (or any successor thereto) and such reports are publicly available.

(g) The Trustee shall have no duty to determine whether any filings or postings described in this Section 3.10 have been made.

(h) Delivery of reports, information and documents to the Trustee under this Indenture is for informational purposes only and the information and the Trustee's receipt of the foregoing shall not constitute actual or constructive notice of any information contained therein, or determinable from information contained therein including the Issuer's compliance with any of its covenants hereunder (as to which the Trustee is entitled to conclusively rely on an Officer's Certificate). The Trustee shall have no duty to review or analyze such reports, information or documents. The Trustee shall have no liability or responsibility for the filing, timeliness or content of any such reports, information or documents, and the Trustee shall have no duty to participate in or monitor any conference calls.

SECTION 3.11 [Reserved].

SECTION 3.12 Maintenance of Office or Agency.

The Issuer will maintain an office or agency where the Notes may be presented or surrendered for payment where, if applicable, the Notes may be surrendered for registration of transfer or exchange. The corporate trust office of the Trustee, which initially shall be located at 333 Thornall Street, Edison, NJ 08837, Attention: Mark DiGiacomo, shall be such office or agency of the Issuer, unless the Issuer shall designate and maintain some other office or agency for one or more of such purposes. The Issuer will give prompt written notice to the Trustee of any change in the location of any such office or agency. If at any time the Issuer shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations and surrenders may be made or served at the corporate trust office of the Trustee, and the Issuer hereby appoints the Trustee as its agent to receive all such presentations and surrenders.

The Issuer may also from time to time designate one or more other offices or agencies where the Notes may be presented or surrendered for any or all such purposes and may from time to time rescind any such designation. The Issuer will give prompt written notice to the Trustee of any such designation or rescission and any change in the location of any such other office or agency. No office of the Trustee shall be an office or agency of the Issuer for the purposes of service of legal process on the Issuer or any Guarantor.

SECTION 3.13 After-Acquired Collateral.

From and after the Spin-Off Date, subject to the Perfection Exceptions and the terms of the First Lien Pari Passu Intercreditor Agreement, if the Issuer or any Subsidiary Guarantor creates or perfects any additional security interest upon any property or assets (other than Excluded Property) of such Person to secure any First Lien Obligations, it shall concurrently grant and perfect a first-priority perfected security interest (subject to Permitted Liens) in such property as security for the Notes with the priority required by this Indenture and the Notes Security Documents.

SECTION 3.14 Spin-Off Date Transaction Deliverables.

On the Spin-Off Date, each of the Subsidiaries of the Issuer that is required to guarantee the obligations under the Credit Agreement on or in connection with the Spin-Off Date shall execute and deliver to the Trustee the Supplemental Indenture. On the Spin-Off Date, pursuant to this Section 3.14, each of the Issuer and the Subsidiary Guarantors shall (x) enter into the Notes Security Documents to which it is a party defining the terms of the security interests that secure the Notes and the Subsidiary Guarantees and (y) use commercially reasonable efforts to perfect all security interests in the Collateral, with respect to the Issuer and the Subsidiary Guarantors, on the Spin-Off Date, subject to certain exceptions below and in the Notes Security Documents (including the Perfection Exceptions).

On the Spin-Off Date (but subject to the immediately following paragraph), the Issuer shall deliver to the Trustee and/or the Notes Collateral Agent, as applicable, all of the following, each of which shall be originals or facsimiles or "pdf" files unless otherwise specified, each properly executed by a responsible officer of the signing Person, each dated as of a date that is no later than the Spin-Off Date (or, in the case of certificates of governmental officials, as of a recent date before such date), each accompanied by their respective required schedules and other attachments (and set forth thereon shall be all required information with respect to the Issuer and its Subsidiaries, giving effect to the Transactions):

(a) a perfection certificate;

(b) the First Lien Pari Passu Intercreditor Agreement;

(c) the Security Agreement, duly executed by the Issuer and each Subsidiary Guarantor;

(d) copies of proper financing statements, filed or duly prepared for filing by the Issuer and each Subsidiary Guarantor under the Uniform Commercial Code of each applicable jurisdiction;

(e) an Intellectual Property Security Agreement, duly executed by the Notes Collateral Agent and the Issuer or each Subsidiary Guarantor that owns intellectual property that is required to be pledged in accordance with the Security Agreement;

(f) the results of Uniform Commercial Code (or equivalent) filings, intellectual property lien searches, and tax and judgment lien searches made with respect to the Issuer and each Subsidiary Guarantor in the jurisdictions contemplated by the perfection certificate and copies of the financing statements (or similar documents) disclosed by such search and evidence that the liens indicated by such financing statements (or similar documents) are permitted by this Indenture;

(g) insurance certificates and endorsements naming the Notes Collateral Agent as additional insured or loss payee, as applicable; and

(h) a customary intercompany subordination agreement and such customary documents, legal opinions and certifications (including organization documents and, if applicable, good standing certificates or certificates of status) in connection with the foregoing, in each case, consistent with those delivered pursuant to the corresponding provision of the Credit Agreement.

Notwithstanding the foregoing, in the case of clauses (f), (g) and (h) of this Section 3.14, to the extent that pursuant to the corresponding provision of the Credit Agreement, such deliverable is not required pursuant to the Credit Agreement to be delivered on the Spin-Off Date (whether pursuant to the terms thereof, or as a result of any determination made thereunder, or by amendment, waiver or otherwise), the foregoing clauses (f), (g) or (h) of this Section 3.14 shall be deemed modified such that such deliverable shall not be required to be made under this Indenture unless and until required under the Credit Agreement.

SECTION 3.15 [Reserved].

SECTION 3.16 Compliance Certificate. The Issuer shall deliver to the Trustee within 120 days after the end of each fiscal year of the Issuer an Officer's Certificate, the signer of which shall be the principal executive officer, principal financial officer, principal accounting officer, principal legal officer, secretary or treasurer of the Issuer, stating that in the course of the performance by the signer of his or her duties as an Officer of the Issuer he or she would normally have knowledge of any Default or Event of Default and whether or not the signer knows of any Default or Event of Default that occurred during the previous fiscal year; *provided* that no such Officer's Certificate shall be required for any fiscal year ended prior to the Spin-Off Date. If such Officer does have such knowledge, the certificate shall describe the Default or Event of Default, its status and the action the Issuer is taking or proposes to take with respect thereto.

SECTION 3.17 Further Instruments and Acts. Upon request of the Trustee or as necessary to comply with future developments or requirements, the Issuer will execute and deliver such further instruments and do such further acts as may be reasonably necessary or proper to carry out more effectively the purpose of this Indenture.

SECTION 3.18 [Reserved].

SECTION 3.19 Statement by Officers as to Default. The Issuer shall deliver to the Trustee, within 30 days after the Issuer becomes aware of the occurrence of any Default or Event of Default, an Officer's Certificate setting forth the details of such Default or Event of Default, its status and the actions which the Issuer is taking or proposes to take with respect thereto. The Trustee will not be deemed to have knowledge of any Defaults or Events of Default unless a Responsible Officer of the Trustee has obtained actual knowledge thereof.

SECTION 3.20 Designation of Restricted and Unrestricted Subsidiaries. The Issuer may designate any Restricted Subsidiary to be an Unrestricted Subsidiary if such designation would not cause an Event of Default described in clauses (1), (2), (7) or (8) of Section 6.01(a). If a Restricted Subsidiary is designated as an Unrestricted Subsidiary, the aggregate fair market value of all outstanding Investments owned by the Issuer and its Restricted Subsidiaries in the Subsidiary designated as an Unrestricted Subsidiary will be deemed to be an Investment made as of the time of the designation and will reduce the amount available for Restricted Payments pursuant to Section 3.03 hereof or under one or more clauses of the definition of "Permitted Investments," as determined by the Issuer. Such designation will only be permitted if the Investment would be permitted at that time and if the Restricted Subsidiary otherwise meets the definition of an "Unrestricted Subsidiary." The Issuer may redesignate any Unrestricted Subsidiary to be a Restricted Subsidiary if such redesignation would not cause an Event of Default.

Any designation of a Subsidiary of the Issuer as an Unrestricted Subsidiary will be evidenced to the Trustee by delivering to the Trustee an Officer's Certificate certifying that such designation complies with the preceding conditions and was not prohibited by Section 3.03 hereof. If, at any time, any Unrestricted Subsidiary would fail to meet the preceding requirements as an Unrestricted Subsidiary, it will thereafter cease to be an Unrestricted Subsidiary for purposes of this Indenture and any Indebtedness and Liens of such Subsidiary will be deemed to be incurred by a Restricted Subsidiary as of such date and, if such Indebtedness or Liens are not permitted to be incurred as of such date by Section 3.02 or Section 3.06 hereof, the Issuer will be in default of such covenant.

The Issuer may at any time designate any Unrestricted Subsidiary to be a Restricted Subsidiary; *provided* that such designation will be deemed to be an incurrence of Indebtedness and Liens by a Restricted Subsidiary of any outstanding Indebtedness and Liens of such Unrestricted Subsidiary, and such designation will only be permitted if (1) such Indebtedness is permitted under Section 3.02 hereof (including pursuant to Section 3.02(b)(5) treating such redesignation as an acquisition for the purpose of such clause) and Section 3.06 hereof, calculated on a *pro forma* basis as if such designation had occurred at the beginning of the applicable reference period; and (2) no Event of Default described in clauses (1), (2), (7) or (8) of Section 6.01(a) would be in existence following such designation. Any such designation by the Issuer shall be evidenced to the Trustee by delivering to the Trustee an Officer's Certificate certifying that such designation complies with the preceding conditions.

SECTION 3.21 Suspension of Certain Covenants on Achievement of Investment Grade Status

(a) Following the first day following the Spin-Off Date that (i) the Notes have achieved Investment Grade Status and (ii) no Default or Event of Default has occurred and is continuing under this Indenture (the occurrence of the events described in the foregoing clause (i) and this clause (ii) being collectively referred to as a "Covenant Suspension Event"), then, beginning on that day and continuing until the Reversion Date (such period of time between the date of occurrence of a Covenant Suspension Event and the Reversion Date, "Suspension Period"), the Issuer and its Restricted Subsidiaries will not be subject to Sections 3.02, 3.03, 3.04, 3.05, 3.07, 3.08 and 4.01(a)(3) (collectively, the "Suspended Covenants").

(b) If at any time the Notes cease to have such Investment Grade Status, then the Suspended Covenants shall thereafter be reinstated as if such covenants had never been suspended (the "Reversion Date") and be applicable pursuant to the terms of this Indenture (including in connection with performing any calculation or assessment to determine compliance with the terms of this Indenture), unless and until the Notes subsequently attain Investment Grade Status and no Default or Event of Default is in existence (in which event the Suspended Covenants shall no longer be in effect for such time that the Notes maintain an Investment Grade Status); *provided*, *however*, that no Default, Event of Default or breach of any kind shall be deemed to exist under this Indenture, the Notes or the Note Guarantees with respect to the Suspended Covenants based on, and none of the Issuer or any of its Subsidiaries shall bear any liability for, any actions taken or events occurring during the Suspension Period, or any actions taken at any time pursuant to any contractual obligation arising prior to the Reversion Date, regardless of whether such actions or events would have been permitted if the applicable Suspended Covenants remained in effect during such period.

(c) On the Reversion Date, all Indebtedness incurred during the Suspension Period will be deemed to have been outstanding on the Spin-Off Date, so that it is classified as permitted under Section 3.02(b)(4)(b). On and after the Reversion Date, all Liens created during the Suspension Period will be considered Permitted Liens pursuant to clause (11) of such definition. Accordingly, Restricted Payments made during the Suspension Period will not reduce the amount available to be made as Restricted Payments under Section 3.03(a).

(d) On the Reversion Date, the amount of Excess Proceeds shall be reset at zero. Any Affiliate Transaction entered into after the Reversion Date pursuant to an agreement entered into during any Suspension Period will be deemed to have been outstanding on the Spin-Off Date, so that it is classified as permitted under Section 3.08(b)(6). Any encumbrance or restriction on the ability of any Restricted Subsidiary to take any action described in Section 3.04(a) that becomes effective during the Suspension Period will be deemed to have existed on the Spin-Off Date, so that it is classified as permitted under Section 3.04(b)(1).

(e) All obligations to grant Note Guarantees (including any such future obligations) shall be reinstated upon the Reversion Date, and within the time frame required under Section 3.07, the Issuer must comply with the terms of the covenant described under Section 3.07.

(f) As described above, however, no Default, Event of Default or breach of any kind shall be deemed to have occurred on the Reversion Date as a result of any actions taken or the continuance of any circumstances resulting from actions taken or the performance of obligations under agreements entered into by the Issuer or any of the Restricted Subsidiaries during the Suspension Period (other than agreements to take actions after the Reversion Date that would not be permitted outside of the Suspension Period entered into in contemplation of the Reversion Date).

(g) On and after each Reversion Date, the Issuer and any of its Subsidiaries will be permitted to consummate the transactions contemplated by any contract entered into during the Suspension Period, so long as such contract and such consummation would have been permitted during such Suspension Period.

(h) The Trustee shall have no duty to monitor the ratings of the Notes, shall not be deemed to have any knowledge of the ratings of the Notes and shall have no duty to notify Holders if the Notes achieve Investment Grade Status or of the occurrence of a Reversion Date or to independently determine or verify if such events have occurred.

ARTICLE IV

SUCCESSOR COMPANY

SECTION 4.01 Merger and Consolidation.

(a) From and after the Spin-Off Date, the Issuer shall not consolidate with or merge with or into, or convey, transfer or lease all or substantially all of the assets of the Issuer and its Restricted Subsidiaries, taken as a whole, in one transaction or a series of related transactions, to any Person, unless:

(1) the Issuer is the surviving Person or the resulting, surviving or transferee Person (the "Successor Company") will be a Person organized or existing under the laws of an Applicable Jurisdiction and the Successor Company (if not the Issuer) will expressly assume all the obligations of the Issuer under the Notes, this Indenture and the Notes Security Documents pursuant to supplemental indentures or other documents and instruments;

(2) immediately after giving effect to such transaction (and treating any Indebtedness that becomes an obligation of the applicable Successor Company or any Subsidiary of the applicable Successor Company as a result of such transaction as having been incurred by the applicable Successor Company or such Subsidiary at the time of such transaction), no Event of Default shall have occurred and be continuing;

(3) immediately after giving pro forma effect to such transaction, either (a) the applicable Successor Company or the Issuer would be able to incur at least an additional $1.00 of Indebtedness pursuant to Section 3.02(a) hereof, (b) the Fixed Charge Coverage Ratio of the Issuer and its Restricted Subsidiaries would not be lower than it was immediately prior to giving effect to such transaction or (c) the Consolidated Total Net Leverage Ratio of the Issuer and its Restricted Subsidiaries would not be higher than it was immediately prior to giving effect to such transactions; and

(4) the Issuer shall have delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that such consolidation, merger or transfer and such supplemental indenture (if any) comply with this Indenture and an Opinion of Counsel stating that such supplemental indenture (if any) is a legal and binding agreement enforceable against the Successor Company; *provided* that, in giving an Opinion of Counsel, counsel may rely on an Officer's Certificate as to any matters of fact, including as to satisfaction of clauses (2) and (3) above.

(b) [Reserved].

(c) The Successor Company will succeed to, and be substituted for, and may exercise every right and power of, the Issuer under the Notes and this Indenture, and the Issuer will automatically and unconditionally be released and discharged from its obligations under the Notes and this Indenture.

(d) Notwithstanding any other provision of this Section 4.01, (i) the Issuer may consolidate or otherwise combine with or merge into or transfer all or substantially all or part of its properties and assets to one or more Guarantors, (ii) the Issuer may consolidate or otherwise combine with or merge into an Affiliate incorporated or organized for the purpose of changing the legal domicile of the Issuer, reincorporating the Issuer in another jurisdiction, or changing the legal form of the Issuer, (iii) the Issuer may complete any Permitted Tax Restructuring, (iv) the Issuer may consolidate or otherwise combine with or merge into or transfer all or substantially all or part of its properties and assets to any Person in connection with the Transactions and (v) any Permitted Investment and/or permitted disposition may be structured as a merger, consolidation or amalgamation.

(e) The foregoing provisions shall not apply to the creation of a new Subsidiary as a Restricted Subsidiary. For the avoidance of doubt, notwithstanding anything else contained herein, any LLC Conversion shall be permitted under this Indenture.

(f) Subject to Section 10.02(b), on and following the Spin-Off Date, no Guarantor may consolidate with or merge with or into, or convey, transfer or lease all or substantially all of its assets, in one transaction or a series of related transactions, to any Person, unless:

(1)(a) the other Person is the Issuer or any Restricted Subsidiary that is a Guarantor or becomes a Guarantor concurrently with the transaction; or either (x) the Issuer or a Guarantor is the continuing Person or (y) the resulting, surviving or transferee Person expressly assumes all the obligations of the Guarantor under its Note Guarantee, the Notes Security Documents and this Indenture; and

(b) immediately after giving effect to the transaction, no Event of Default shall have occurred and be continuing; or

(2) the transaction constitutes a sale, disposition or transfer of the Guarantor or the conveyance, transfer or lease of all or substantially all of the assets of the Guarantor (in each case other than to the Issuer or a Restricted Subsidiary) otherwise not prohibited by this Indenture.

Notwithstanding any other provision of this Section 4.01, any Guarantor may (a) consolidate or otherwise combine with, merge into or transfer all or part of its properties and assets to another Guarantor or the Issuer, (b) consolidate or otherwise combine with or merge into an Affiliate (i) organized or existing under the laws of an Applicable Jurisdiction or (ii) incorporated or organized for the purpose of changing the legal domicile of the Guarantor, reincorporating the Guarantor in another jurisdiction, or changing the legal form of the Guarantor, (c) convert into a corporation, partnership, limited partnership, limited liability company or trust organized or existing under the laws of the jurisdiction of organization of such Guarantor, (d) liquidate or dissolve or change its legal form if the Issuer determines in good faith that such action is in the best interests of the Issuer, (e) complete any Permitted Tax Restructuring, (f) consolidate or otherwise combine with, merge into or otherwise transfer all or party of its properties and assets to (upon voluntary liquidation or otherwise) any Person if (x) such transaction is undertaken in good faith to improve the tax efficiency of any Parent Entity, the Issuer and/or any of its Subsidiaries and (y) after giving effect to such transaction, the value of the Guarantees, taken as a whole, is not materially impaired (as determined in good faith by the Issuer), (g) consolidate or otherwise combine with or merge into any Person in connection with the Transactions and (h) consolidate with or merge with or into, or transfer all or part of its properties and assets to, any Person in connection with any Permitted Investment and/or permitted disposition. Notwithstanding anything to the contrary in this Section 4.01, the Issuer may contribute Capital Stock of any or all of its Subsidiaries to any Guarantor.

A sale, lease or other disposition by the Issuer of any part of its assets shall not be deemed to constitute the sale, lease or other disposition of substantially all of its assets for purposes of this Indenture if the fair market value of the assets retained by the Issuer exceeds 100.0% of the aggregate principal amount of all outstanding Notes and any other outstanding Indebtedness of the Issuer that ranks equally with, or senior to, the Notes with respect to such assets. Such fair market value may, at the election of the Issuer, be established by the delivery to the Trustee of an independent expert's certificate stating the independent expert's opinion of such fair market value as of a date not more than 90 days before or after such sale, lease or other disposition. This paragraph is not intended to limit the Issuer's sales, leases or other dispositions of less than substantially all of its assets.

Any reference herein to a merger, consolidation, amalgamation, assignment, sale, disposition or transfer, or similar term, shall be deemed to apply to a division of or by a limited liability company, limited partnership or trust, or an allocation of assets to a series of a limited liability company, limited partnership or trust (or the unwinding of such a division or allocation), as if it were a merger, consolidation, amalgamation, assignment, sale, disposition or transfer, or similar term, as applicable, to, of or with a separate Person. Any division of a limited liability company, limited partnership or trust shall constitute a separate Person hereunder (and each division of any limited liability company, limited partnership or trust that is a Subsidiary, Restricted Subsidiary, Unrestricted Subsidiary, joint venture or any other like term shall also constitute such a Person or entity).

Notwithstanding any other provision of this Section 4.01, this Section 4.01 will not apply to the Transactions.

ARTICLE V

REDEMPTION OF SECURITIES

SECTION 5.01 Notices to Trustee. Except with respect to a Special Mandatory Redemption pursuant to Section 5.09 hereof, if the Issuer elects to redeem Notes pursuant to the optional redemption provisions of Section 5.07 hereof, it must furnish to the Trustee, at least 10 days but not more than 60 days before a redemption date, an Officer's Certificate setting forth:

(1) the paragraph of the Notes and/or Section of this Indenture pursuant to which the Notes called for redemption are to be redeemed;

(2) the redemption date;

(3) the principal amount of Notes to be redeemed; and

(4) the redemption price.

Any optional redemption referenced in such Officer's Certificate may be cancelled by the Issuer at any time prior to notice of redemption being sent to any Holder and thereafter shall be null and void.

SECTION 5.02 Selection of Notes to Be Redeemed or Purchased. If less than all of the Notes are to be redeemed or purchased pursuant to Section 5.07, Section 3.05 or Section 5.09, as applicable, the Trustee will select Notes for redemption or purchase (a) in compliance with the requirements of the principal securities exchange, if any, on which the Notes are listed, as certified to the Trustee by the Issuer, and otherwise in compliance with the requirements of DTC, or (b) if the Notes are not so listed or such exchange prescribes no method of selection and the Notes are not held through DTC or DTC prescribes no method of selection, on a pro rata basis or by lot (subject to adjustments to maintain the authorized Notes denomination requirements and to any applicable policies and procedures of DTC), except if otherwise required by law.

In the event of partial redemption, the particular Notes to be redeemed or purchased will be selected, unless otherwise provided herein, not less than 10 days nor more than 60 days prior to the redemption or purchase date by the Trustee from the outstanding Notes not previously called for redemption or purchase; *provided* that the Issuer shall provide the Trustee with sufficient notice of such partial redemption to enable the Trustee to select the Notes for partial redemption.

The Trustee will promptly notify the Issuer in writing of the Notes selected for redemption or purchase and, in the case of any Note selected for partial redemption or purchase, the principal amount thereof to be redeemed or purchased. Notes and portions of Notes selected will be in minimum principal amounts of $2,000 and whole multiples of $1,000 in excess of $2,000; except that if all of the Notes of a Holder are to be redeemed or purchased, the entire outstanding amount of Notes held by such Holder, even if not in a minimum principal amount of $2,000 or a multiple of $1,000 in excess thereof, shall be redeemed or purchased. Except as provided in the preceding sentence, provisions of this Indenture that apply to Notes called for redemption or purchase also apply to portions of Notes called for redemption or purchase.

SECTION 5.03 Notice of Redemption. Except with respect to a Special Mandatory Redemption pursuant to Section 5.09 hereof, at least 10 days but not more than 60 days before the redemption date, the Issuer will send or cause to be sent, by electronic delivery or by first-class mail postage prepaid, a notice of redemption to each Holder (with a copy to the Trustee) whose Notes are to be redeemed at the address of such Holder appearing in the security register or otherwise in accordance with the applicable procedures of DTC, except that redemption notices may be delivered electronically or mailed more than 60 days prior to a redemption date if the notice is issued in connection with a defeasance of the Notes or a satisfaction and discharge of this Indenture pursuant to Articles VIII or XI hereto. Other than the timing, notices of a Special Mandatory Redemption shall be given to Holders in the same manner as notices of redemption.

The notice will identify the Notes (including the CUSIP or ISIN number) to be redeemed and will state:

(1) the redemption date;

(2) the redemption price;

(3) if any Note is being redeemed in part, the portion of the principal amount of such Note to be redeemed and that, after the redemption date upon surrender of such Note, a new Note or Notes in principal amount equal to the unredeemed portion will be issued upon cancellation of the original Note;

(4) the name and address of the Paying Agent;

(5) that Notes called for redemption must be surrendered to the Paying Agent to collect the redemption price;

(6) that, unless the Issuer defaults in making such redemption payment, interest on Notes called for redemption ceases to accrue on and after the redemption date;

(7) the paragraph of the Notes and/or Section of this Indenture pursuant to which the Notes called for redemption are being redeemed; and

(8) that no representation is made as to the correctness or accuracy of the CUSIP number, if any, listed in such notice or printed on the Notes.

At the Issuer's request, the Trustee will give the notice of redemption in the Issuer's name and at its expense; *provided*, *however*, that the Issuer has delivered to the Trustee, at least three (3) Business Days (or if any of the Notes to be redeemed are in definitive form, five (5) Business Days) prior to the date on which the notice of redemption is to be sent (or such shorter period as the Trustee may agree), an Officer's Certificate requesting that the Trustee give such notice and setting forth the information to be stated in such notice as provided in the preceding paragraph (which may be the Officer's Certificate referenced in Section 5.01).

The Issuer may redeem the Notes pursuant to one or more of the relevant provisions of this Indenture, and a single notice of redemption may be delivered with respect to redemptions made pursuant to different provisions. Any such notice may provide that redemptions made pursuant to different provisions may have different redemption dates or may specify the order in which redemptions taking place on the same redemption date are deemed to occur.

Notice of any redemption of the Notes may, at the Issuer's discretion, be given prior to the completion of a transaction (including an Equity Offering, an incurrence of Indebtedness, a Change of Control or other transaction) and any redemption notice may, at the Issuer's discretion, be subject to one or more conditions precedent, including, but not limited to, completion of a related transaction. If such redemption or purchase is so subject to satisfaction of one or more conditions precedent, such notice shall describe each such condition, and if applicable, shall state that, in the Issuer's discretion, the redemption date may be delayed until such time (including more than 60 days after the date the notice of redemption was mailed or delivered, including by electronic transmission) as any or all such conditions shall be satisfied, or such redemption or purchase may not occur and such notice may be rescinded in the event that any or all such conditions shall not have been satisfied (or waived by the Issuer in its sole discretion) by the redemption date, or by the redemption date as so delayed. In addition, the Issuer may provide in such notice that payment of the redemption price and performance of the Issuer's obligations with respect to such redemption may be performed by another Person.

SECTION 5.04 [Reserved] .

SECTION 5.05 Deposit of Redemption or Purchase Price. Prior to 11:00 a.m. New York City time on the redemption or purchase date, the Issuer will deposit with the Trustee or with the Paying Agent money sufficient to pay the redemption or purchase price of and accrued interest, if any, on all Notes to be redeemed or purchased on that date. The Trustee or the Paying Agent will promptly return, on or following the applicable redemption or repurchase date, to the Issuer any money deposited with the Trustee or the Paying Agent by the Issuer in excess of the amounts necessary to pay the redemption or purchase price of, and accrued interest, if any, on all Notes to be redeemed or purchased.

If the Issuer complies with the provisions of the preceding paragraph, on and after the applicable redemption or purchase date, interest will cease to accrue on the Notes or the portions of Notes called for redemption or purchase. If a Note is redeemed or purchased on or after a record date but before the corresponding interest payment date, then any accrued and unpaid interest, if any, to, but excluding, the redemption date or purchase date shall be paid on the applicable redemption date or purchase date to the Person in whose name such Note was registered at the close of business on such record date in accordance with the applicable procedures of DTC. If any Note called for redemption or purchase is not so paid upon surrender for redemption or purchase because of the failure of the Issuer to comply with the preceding paragraph, interest shall be paid on the unpaid principal, from the redemption or purchase date until such principal is paid, and to the extent lawful on any interest not paid on such unpaid principal, in each case at the rate provided in the Notes and in Section 3.01 hereof.

SECTION 5.06 Notes Redeemed or Purchased in Part. Upon surrender of a Note issued in physical form that is redeemed or purchased in part, the Issuer will issue and the Trustee will authenticate for the Holder at the expense of the Issuer a new Note equal in principal amount to the unredeemed or unpurchased portion of the Note surrendered; *provided* that each such new Note will be in a minimum principal amount of $2,000 or integral multiple of $1,000 in excess thereof.

In the case of a Note issued as a global note, an appropriate notation will be made on such Note to decrease the principal amount thereof to an amount equal to the unredeemed portion thereof; *provided* that the unredeemed portion thereof will be in a minimum principal amount of $2,000 or integral multiple of $1,000 in excess thereof.

SECTION 5.07 Optional Redemption.

(a) At any time on or prior to February 15, 2027, the Issuer may not redeem the Notes at its option.

(b) At any time and from time to time after February 15, 2027, the Issuer may redeem the Notes, in whole or in part, upon at least 10 but not more than 60 days' prior notice, with a copy to the Trustee, to each Holder of Notes to the address of such Holder appearing in the Notes Register at a redemption price equal to the percentage of the principal amount of the Notes to be redeemed as set forth in the table below, plus accrued and unpaid interest, if any, to, but excluding the applicable date of redemption (the "Redemption Date"), subject to the right of Holders of record of the Notes on the relevant record date to receive interest due on the relevant interest payment date, if redeemed during the twelve-month period beginning on February 15 of each of the years indicated in the table below:

Year	Percentage
2027	101.688%
2028 and thereafter	100.000%

(c) Notwithstanding the foregoing, in connection with any tender offer for the Notes, including a Change of Control Offer or Asset Disposition Offer, if Holders of not less than 90.0% in aggregate principal amount of the outstanding Notes validly tender and do not validly withdraw such Notes in such tender offer and the Issuer, or any third party making such tender offer in lieu of the Issuer, purchases all of the Notes validly tendered and not validly withdrawn by such Holders, the Issuer or such third party shall have the right upon at least 10 but not more than 60 days' prior notice, with a copy to the Trustee, to each Holder of Notes to the address of such Holder appearing in the Notes Register, to redeem all Notes that remain outstanding following such purchase at a redemption price equal to the price offered to each other Holder (excluding any early tender or incentive fee) in such tender offer plus, to the extent not included in the tender offer payment, accrued and unpaid interest, if any, thereon, to, but excluding, the date of such redemption. In determining whether the Holders of at least 90% of the aggregate principal amount of the outstanding Notes have validly tendered and not validly withdrawn such Notes in a tender offer, including a Change of Control Offer or Asset Disposition Offer, Notes owned by the Issuer or its Affiliates or by funds controlled or managed by any Affiliate of the Issuer, or any successor thereof, shall be deemed to be outstanding for the purposes of such tender offer.

(d) Unless the Issuer defaults in the payment of the redemption price, interest will cease to accrue on the Notes or portions thereof called for redemption on the applicable Redemption Date.

(e) Any redemption pursuant to this Section 5.07 shall be made pursuant to the provisions of Sections 5.01 through 5.06.

SECTION 5.08 Mandatory Redemption. Except as described under Section 5.09, the Issuer is not required to make mandatory redemption or sinking fund payments with respect to the Notes; *provided*, *however*, that under certain circumstances, the Issuer may be required to offer to purchase Notes under Section 3.05 and Section 3.09. As market conditions warrant, the Issuer and its equity holders, its respective Affiliates and members of its management, may from time to time seek to purchase its outstanding debt securities or loans, including the Notes, in privately negotiated or open market transactions (which may be below par), by tender offer or otherwise.

SECTION 5.09 Special Mandatory Redemption.

(a) If (x) the Spin-Off is not consummated on or prior to 11:59 p.m. on August 5, 2022 (such date and time, the "Outside Date"), (y) prior to the date of the consummation of the Spin-Off (the "Spin-Off Date"), the Issuer notifies the Trustee in writing that BD does not expect to consummate the Spin-Off by the Outside Date, or (z) prior to the Spin-Off Date, BD has made a public announcement that it has determined not to proceed with the Spin-Off (the earliest date of any such event described in the foregoing clauses (x), (y), or (z) being the "Special Termination Date"), then the Issuer shall redeem all of the Notes (the "Special Mandatory Redemption") at a special mandatory redemption price (the "Special Mandatory Redemption Price") equal to 100% of the aggregate principal amount of the Notes, plus accrued and unpaid interest on the Notes, if any, from the Issue Date to, but excluding, the Special Mandatory Redemption Date (as defined below), subject to the right of Holders of record on the relevant record date to receive interest due on the relevant interest payment date.

(b) Notice of a Special Mandatory Redemption shall be delivered by the Issuer electronically or, at the Issuer's option, mailed by first-class mail by the Issuer substantially in the form attached as Exhibit C hereto no later than two (2) Business Days following the applicable Special Termination Date, to the Trustee and the Holders, and shall provide that the Notes shall be redeemed at the Special Mandatory Redemption Price on the third Business Day after such notice is given by the Issuer (such date, the "Special Mandatory Redemption Date") in accordance with the terms of this Indenture or otherwise in accordance with the applicable procedures of DTC. If funds sufficient to pay the applicable Special Mandatory Redemption Price in respect of the Notes to be redeemed on the Special Mandatory Redemption Date are deposited with the Trustee on or before such Special Mandatory Redemption Date, then the Notes to be redeemed shall cease to bear interest on and after the Special Mandatory Redemption Date. For the avoidance of doubt, the Issuer shall not be required to effect any Special Mandatory Redemption following the time of the consummation of the Spin-Off.

ARTICLE VI

DEFAULTS AND REMEDIES

SECTION 6.01 Events of Default.

(a) Each of the following is an "Event of Default" hereunder:

(1) default in any payment of interest on any Note when due and payable, continued for 30 days;

(2) default in the payment of the principal amount of or premium, if any, on any Note issued under this Indenture when due at its Stated Maturity, upon optional redemption, upon required repurchase, upon declaration or otherwise;

(3) failure by the Issuer or any Guarantor to comply for 60 days after written notice by the Trustee on behalf of the Holders or by the Holders of at least 30% in aggregate principal amount of the outstanding Notes with any agreement or obligation contained in this Indenture; *provided* that in the case of a failure to comply with this Indenture provisions described under Section 3.10, such period of continuance of such default or breach shall be 270 days after written notice described in this clause (3) has been given;

(4) (x) prior to the BD Guarantee Release Date, (i) default by BD under and as defined in the Parent Guaranty Agreement, or (ii) the Parent Guaranty Agreement terminates or otherwise ceases to be effective other than in accordance with its terms, or (y) default under any mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any Indebtedness for money borrowed by the Issuer or any Material Subsidiary (or group of Restricted Subsidiaries that, taken together (as of the latest audited consolidated financial statements for the Issuer and its Restricted Subsidiaries) would constitute a Material Subsidiary) (or the payment of which is Guaranteed by the Issuer or any Material Subsidiary (or group of Restricted Subsidiaries that, taken together (as of the latest audited consolidated financial statements for the Issuer and its Restricted Subsidiaries) would constitute a Material Subsidiary)) other than Indebtedness owed to the Issuer or a Restricted Subsidiary whether such Indebtedness or Guarantee now exists, or is created after the date hereof, which default:

(A) is caused by a failure to pay principal of such Indebtedness, at its stated final maturity (after giving effect to any applicable grace periods) provided in such Indebtedness; or

(B) results in the acceleration of such Indebtedness prior to its stated final maturity;

and, in each case with respect to this clause (y), the principal amount of any such Indebtedness, together with the principal amount of any other such Indebtedness under which there has been a payment default of principal at its stated final maturity (after giving effect to any applicable grace periods) or the maturity of which has been so accelerated, aggregates to an amount that is equal to or greater than the Threshold Amount (measured at the date of such non-payment or acceleration) or more at any one time outstanding;

(5) failure by the Issuer or a Material Subsidiary (or group of Restricted Subsidiaries that, taken together (as of the latest audited consolidated financial statements for the Issuer and its Restricted Subsidiaries) would constitute a Material Subsidiary) to pay final judgments aggregating in excess of the Threshold Amount (measured

at the date of such judgment) other than any judgments covered by indemnities provided by, or insurance policies issued by, reputable and creditworthy companies, which final judgments remain unpaid, undischarged and unstayed for a period of more than 60 days after such judgment becomes final, and in the event such judgment is covered by insurance, an enforcement proceeding has been commenced by any creditor upon such judgment or decree which is not promptly stayed;

(6) any Guarantee of the Notes by a Material Subsidiary ceases to be in full force and effect, other than (A) in accordance with the terms of this Indenture, or (B) in connection with the bankruptcy of a Guarantor, so long as the aggregate assets of such Guarantor and any other Guarantor whose Note Guarantee ceased or ceases to be in full force as a result of a bankruptcy are less than the Threshold Amount (measured at the date of such bankruptcy);

(7) the Issuer or a Material Subsidiary (or any group of Restricted Subsidiaries that, taken together as of the latest audited consolidated financial statements of the Issuer and its Material Subsidiaries, would constitute a Material Subsidiary) pursuant to or within the meaning of any Bankruptcy Law:

(A) commences a voluntary case or proceeding;

(B) consents to the entry of an order for relief against it in an involuntary case or proceeding;

(C) consents to the appointment of a Custodian of it or for substantially all of its property;

(D) makes a general assignment for the benefit of its creditors;

(E) consents to or acquiesces in the institution of a bankruptcy or an insolvency proceeding against it; or

(F) takes any comparable action under any foreign laws relating to insolvency;

(8) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:

(A) is for relief against the Issuer or a Material Subsidiary (or any group of Restricted Subsidiaries that, taken together as of the latest audited consolidated financial statements for the Issuer and its Restricted Subsidiaries, would constitute a Material Subsidiary) in an involuntary case;

(B) appoints a Custodian of the Issuer or a Material Subsidiary (or any group of Restricted Subsidiaries that, taken together as of the latest audited consolidated financial statements for the Issuer and its Restricted Subsidiaries, would constitute a Material Subsidiary) for substantially all of its property; or

(C) orders the winding up or liquidation of the Issuer or a Material Subsidiary (or any group of Restricted Subsidiaries that, taken together as of the latest audited consolidated financial statements for the Issuer and its Restricted Subsidiaries, would constitute a Material Subsidiary); or

any similar relief is granted under any foreign laws and, in each case, the order, decree or relief remains unstayed and in effect for 60 consecutive days;

(9) unless such Liens have been released in accordance with the provisions of this Indenture or the Notes Security Documents, Liens securing the Notes with respect to a material portion of the Collateral cease to be valid, perfected or enforceable, or the Issuer shall assert or any Guarantor shall assert, in any pleading in any court of competent jurisdiction, that any such Lien is invalid, unperfected or unenforceable and, in the case of any such Guarantor, the Issuer fail to cause such Guarantor to rescind such assertions within 30 days after the Issuer has actual knowledge of such assertions; *provided* that no Event of Default shall occur under this clause (9) if the Issuer and the Guarantors cooperate with the Notes Collateral Agent to replace or perfect such Lien, such Lien is promptly replaced or perfected (as needed) and the rights, powers and privileges of the Holders are not materially adversely affected by such replacement or perfection; or

(10) (i) the failure by the Issuer to timely deliver a notice of the special mandatory redemption, if applicable, and to pay the Special Mandatory Redemption Price on the Special Mandatory Redemption Date, as described above under Section 5.09 or (ii) failure by the Issuer or any Guarantor to perform or observe any term, covenant, or agreement as set forth under Section 3.14.

provided that a Default under clause (3), (4)(y) or (5) above will not constitute an Event of Default until the Trustee or the Holders of at least 30% in principal amount of the outstanding Notes notify the Issuer in writing of the Default (with a copy to the Trustee if notice is given by the Holders) and, with respect to clauses (3) and (5), the Issuer does not cure such Default within the time specified in clause (3) or (5) after receipt of such notice; *provided* that a notice of Default may not be given with respect to any action taken, and reported publicly or to Holders and the Trustee, more than two years prior to such notice of Default. Any notice of Default, notice of acceleration or instruction to the Trustee to provide a notice of Default, notice of acceleration or take any other action (a "Noteholder Direction") provided by any one or more Holders (each a "Directing Holder") shall be accompanied by a written representation from each such Holder delivered to the Issuer and the Trustee that such Holder is not (or, in the case such Holder is DTC or its nominee, that such Holder is being instructed solely by beneficial owners that have represented to such Holder that they are not) Net Short (a "Position Representation"), which representation, in the case of a Noteholder Direction relating to the delivery of a notice of Default shall be deemed a continuing representation until the resulting Event of Default is cured or otherwise ceases to exist or the Notes are accelerated. In addition, each Directing Holder shall be deemed, at the time of providing a Noteholder Direction, to covenant to provide the Issuer with such other information as the Issuer may reasonably request from time to time in order to verify the accuracy of such Noteholder's Position Representation within five (5) Business Days of request therefor (a "Verification Covenant"). In any case in which the Holder is DTC or its nominee, any Position Representation or Verification Covenant required hereunder shall be provided by the beneficial owner of the Notes in lieu of DTC or its nominee and DTC shall be entitled to conclusively rely on such Position Representation and Verification Covenant in delivering its direction to the Trustee.

In no event shall the Trustee have any liability or obligation to ascertain, monitor or inquire as to whether any Holder is Net Short and/or whether such Holder has delivered any Position Representation, Verification Covenant, Noteholder Direction, or any related certifications under this Indenture or in connection with the Notes or if any such Position Representation, Verification Covenant, Noteholder Direction, or any related certifications comply with this Indenture, the Notes, or any other document. It is understood and agreed that the Issuer and the Trustee shall be entitled to conclusively rely on each representation, deemed representation and certification made by, and covenant of, each beneficial owner provided for in this paragraph. Notwithstanding any other provision of this Indenture, the Notes or any other document, the provisions of this paragraph shall apply and survive with respect to each beneficial owner notwithstanding that any such Person may have ceased to be a beneficial owner, this Indenture may have been terminated or the Notes may have been redeemed in full.

If, following the delivery of a Noteholder Direction, but prior to acceleration of the Notes, the Issuer determines in good faith that there is a reasonable basis to believe a Directing Holder was, at any relevant time, in breach of its Position Representation and provides to the Trustee an Officer's Certificate stating that the Issuer has initiated litigation in a court of competent jurisdiction seeking a determination that such Directing Holder was, at such time, in breach of its Position Representation, and seeking to invalidate any Default, Event of Default or acceleration (or notice thereof) that resulted from the applicable Noteholder Direction, the cure period with respect to such Event of Default shall be automatically stayed and the cure period with respect to such Default or Event of Default shall be automatically reinstituted and any remedy stayed pending a final and non-appealable determination of a court of competent jurisdiction on such matter if, without the participation of such Holder, the percentage of Notes held by the remaining Holders that provided such Noteholder Direction would have been insufficient to validly provide such Noteholder Direction. If, following the delivery of a Noteholder Direction, but prior to acceleration of the Notes, the Issuer provides to the Trustee an Officer's Certificate stating that a Directing Holder failed to satisfy its Verification Covenant, the cure period with respect to such Default or Event of Default shall be automatically stayed and the cure period with respect to any Default or Event of Default that resulted from the applicable Noteholder Direction shall be automatically reinstituted and any remedy stayed pending satisfaction of such Verification Covenant. Any breach of the Position Representation shall result in such Holder's participation in such Noteholder Direction being disregarded; and, if, without the participation of such Holder, the percentage of Notes held by the remaining Holders that provided such Noteholder Direction would have been insufficient to validly provide such Noteholder Direction, such Noteholder Direction shall be void *ab initio* (other than any indemnity such Directing Holder may have offered the Trustee), with the effect that such Default or Event of Default shall be deemed never to have occurred, acceleration voided and the Trustee shall be deemed not to have received such Noteholder Direction or any notice of such Default or Event of Default.

Notwithstanding anything in the preceding two paragraphs to the contrary, any Noteholder Direction delivered to the Trustee during the pendency of an Event of Default as the result of a bankruptcy or similar proceeding shall not require compliance with the foregoing paragraphs.

For the avoidance of doubt, the Trustee shall be entitled to conclusively rely on any Noteholder Direction delivered to it in accordance with this Indenture, shall have no duty to inquire as to or investigate the accuracy of any Position Representation, enforce compliance with any Verification Covenant, verify any statements in any Officer's Certificate delivered to it, or otherwise make calculations, investigations or determinations with respect to Derivative Instruments, Net Shorts, Long Derivative Instruments, Short Derivative Instruments or otherwise. The Trustee shall have no liability to the Issuer, any Holder or any other Person in connection with any Noteholder Direction or to determine whether or not any Holder has delivered any Position Representation, Verification Covenant, Noteholder Direction or any related certification or that such Position Representation, Verification Covenant, Noteholder Direction or any related certification conforms with this Indenture or any other agreement.

(b) If a Default for a failure to report or failure to deliver a required certificate in connection with another default (the "Initial Default") occurs, then at the time such Initial Default is cured or waived, as applicable, such Default for a failure to report or failure to deliver a required certificate in connection with another default that resulted solely because of that Initial Default shall also be cured without any further action.

(c) Any Default or Event of Default for the failure to comply with the time periods prescribed in Section 3.10 hereof or otherwise to deliver any notice or certificate pursuant to any other provision of this Indenture shall be deemed to be cured upon the delivery of any such report required by such provision or such notice or certificate, as applicable, even though such delivery is not within the prescribed period specified in this Indenture.

(d) Any time period provided in this Indenture to cure any actual or alleged Default or Event of Default may be extended or stayed by a court of competent jurisdiction.

SECTION 6.02 Acceleration. If any Event of Default (other than an Event of Default described in clause (7), (8) or (10) of Section 6.01(a) with respect to the Issuer) occurs and is continuing, the Trustee by written notice to the Issuer or the Holders of at least 30% in principal amount of the outstanding Notes by written notice to the Issuer and the Trustee, may declare the principal of and accrued and unpaid interest, if any, on all the Notes to be due and payable. Upon such a declaration, such principal and accrued and unpaid interest, if any, will be due and payable immediately.

In the event of any declaration of acceleration of the Notes due to an Event of Default specified in clause (4)(y) of Section 6.01(a), such Event of Default and all consequences thereof shall be annulled, waived and rescinded, automatically and without any action by the Trustee or the Holders, if within 30 days after the declaration of acceleration with respect thereto:

(1) (x) the Indebtedness that gave rise to such Event of Default shall have been discharged in full; or

(y) the holders of such Indebtedness have rescinded or waived the acceleration, notice or action (as the case may be) giving rise to such Event of Default; or

(z) if the default that is the basis for such Event of Default has been cured; and

(2) the annulment of the acceleration of the Notes would not conflict with any judgment or decree of a court of competent jurisdiction.

If an Event of Default described in clause (7), (8) or (10) of Section 6.01(a) with respect to the Issuer occurs and is continuing, the principal of and accrued and unpaid interest, if any, on all the Notes will become and be immediately due and payable without any declaration or other act on the part of the Trustee or any Holders.

SECTION 6.03 Other Remedies. If an Event of Default occurs and is continuing, the Trustee and the Notes Collateral Agent may pursue any available remedy by proceeding at law or in equity to collect the payment of principal of, or premium, if any, or interest, if any, on the Notes or to enforce the performance of any provision of the Notes, this Indenture or the Notes Security Documents.

The Trustee and the Notes Collateral Agent may maintain a proceeding even if it does not possess any of the Notes or does not produce any of them in the proceeding. A delay or omission by the Trustee, the Notes Collateral Agent or any Holder in exercising any right or remedy accruing upon an Event of Default shall not impair the right or remedy or constitute a waiver of or acquiescence in the Event of Default. No remedy is exclusive of any other remedy. All available remedies are cumulative.

SECTION 6.04 Waiver of Past Defaults. The Holders of a majority in aggregate principal amount of the then outstanding Notes by written notice to the Trustee may, on behalf of all of the Holders, (a) waive, by their consent (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, Notes), any past or existing Default or Event of Default and its consequences under this Indenture except (i) a Default or Event of Default in the payment of the principal of, or interest, on a Note or (ii) a Default or Event of Default in respect of a provision that under Section 9.02 cannot be amended or waived without the consent of each Holder affected and (b) rescind any acceleration with respect to the Notes and its consequences if (1) such rescission would not conflict with any judgment or decree of a court of competent jurisdiction, (2) all existing Events of Default have been cured or waived except nonpayment of principal, premium, if any, or interest, if any, that has become due solely because of the acceleration, (3) to the extent the payment of such interest is lawful, interest on overdue installments of interest and overdue principal, which has become due otherwise than by such declaration of acceleration, has been paid, (4) the Issuer has paid the Trustee its compensation and reimbursed the Trustee for its reasonable expenses, disbursements and advances and (5) in the event of the cure or waiver of an Event of Default of the type described in clause (4) of Section 6.01(a), the Trustee shall have received an Officer's Certificate and an Opinion of Counsel stating that such Event of Default has been cured or waived. No such rescission shall affect any subsequent Default or impair any right consequent thereto. When a Default or Event of Default is waived, it is deemed cured, but no such waiver shall extend to any subsequent or other Default or Event of Default or impair any consequent right except as provided in Section 6.01(b).

SECTION 6.05 Control by Majority. The Holders of a majority in aggregate principal amount of the outstanding Notes may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or the Notes Collateral Agent or of exercising any trust or power conferred on the Trustee or the Notes Collateral Agent. However, the Trustee may refuse to follow any direction that conflicts with law or this Indenture or the Notes or, subject to Sections 7.01 and 7.02, that the Trustee determines is unduly prejudicial to the rights of any other Holders (it being understood that the Trustee does not have an affirmative duty to ascertain whether or not any actions are prejudicial to such Holders) or would involve the Trustee in personal liability; *provided*, *however*, that the Trustee may take any other action deemed proper by the Trustee that is not inconsistent with such direction; *provided*, *further*, that the Trustee has no duty to determine whether any action is prejudicial to any Holder. Prior to taking any such action hereunder, the Trustee shall be entitled to indemnification or security satisfactory to the Trustee against all fees, losses, liabilities and expenses (including attorneys' fees and expenses) that may be caused by taking or not taking such action and the Trustee will be under no obligation to exercise any of the rights or powers under this Indenture at the request or direction of any of the Holders unless such Holders have offered and, if requested, provided to the Trustee such indemnification or security.

SECTION 6.06 Limitation on Suits. Subject to Section 6.07, a Holder may not pursue any remedy with respect to this Indenture or the Notes unless:

(1) such Holder has previously given the Trustee written notice that an Event of Default is continuing;

(2) Holders of at least 30% in aggregate principal amount of the outstanding Notes have requested in writing the Trustee to pursue the remedy;

(3) such Holders have offered in writing and, if requested, provided to the Trustee security or indemnity satisfactory to the Trustee against any loss, liability or expense;

(4) the Trustee has not complied with such request within 60 days after the receipt of the written request and the offer of security or indemnity; and

(5) Holders of a majority in aggregate principal amount of the outstanding Notes have not given the Trustee a written direction that, in the opinion of the Trustee, is inconsistent with such request within such 60-day period.

A Holder may not use this Indenture to prejudice the rights of another Holder or to obtain a preference or priority over another Holder (it being understood that the Trustee does not have an affirmative duty to ascertain whether or not such actions or forbearances are unduly prejudicial to such Holders).

SECTION 6.07 Rights of Holders to Receive Payment. Notwithstanding any other provision of this Indenture (including, without limitation, Section 6.06), the contractual right of any Holder to receive payment of interest on the Notes held by such Holder or to institute suit for the enforcement of any such payment on or with respect to such Holder's Notes shall not be impaired or affected without the consent of such Holder (and, for the avoidance of doubt, the amendment, supplement or modification in accordance with the terms of this Indenture of Article III and IV and Sections 6.01(a)(3), (4), (5) and (6) and the related definitions shall be deemed not to impair the contractual right of any Holder to receive payments of principal of and interest on such Holder's Notes on or after the due dates therefor or to institute suit for the enforcement of any such payment on or with respect to such Holder's Note).

SECTION 6.08 Collection Suit by Trustee. If an Event of Default specified in clauses (1) or (2) of Section 6.01(a) occurs and is continuing, the Trustee may recover judgment in its own name and as trustee of an express trust against the Issuer for the whole amount then due and owing (together with interest on any unpaid interest to the extent lawful) and the amounts provided for in Section 7.07.

SECTION 6.09 Trustee May File Proofs of Claim. The Trustee may file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and the Holders allowed in any judicial proceedings relative to the Issuer, its Subsidiaries or its or their respective creditors or properties and, unless prohibited by law or applicable regulations, may be entitled and empowered to participate as a member of any official committee of creditors appointed in such matter and may vote on behalf of the Holders in any election of a trustee in bankruptcy or other Person performing similar functions, and any Custodian in any such judicial proceeding is hereby authorized by each Holder to make payments to the Trustee and, in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due it for the compensation, expenses, disbursements and advances of the Trustee, its agents and its counsel, and any other amounts due the Trustee under Section 7.07.

No provision of this Indenture shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder thereof or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

SECTION 6.10 Priorities.

(a) Subject to the terms of the First Lien Pari Passu Intercreditor Agreement, if the Trustee collects any money or property pursuant to this Article VI, including upon realization of the Collateral, it shall pay out the money or property in the following order:

FIRST: to the Trustee and the Notes Collateral Agent for amounts due to it under Section 7.07;

SECOND: to Holders for amounts due and unpaid on the Notes for principal of, or premium, if any, and interest, ratably, without preference or priority of any kind, according to the amounts due and payable on the Notes for principal of, or premium, if any, and interest, respectively; and

THIRD: to the Issuer, or to the extent the Trustee collects any amount for any Guarantor, to such Guarantor.

(b) The Trustee may fix a record date and payment date for any payment to Holders pursuant to this Section 6.10. At least 15 days before such record date, the Issuer shall send or cause to be sent to each Holder and the Trustee a notice that states the record date, the payment date and amount to be paid.

SECTION 6.11 Undertaking for Costs. In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as Trustee, a court in its discretion may require the filing by any party litigant in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees and expenses, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section 6.11 does not apply to a suit by the Trustee, a suit by the Issuer, a suit by a Holder pursuant to Section 6.07 or a suit by Holders of more than 20.0% in outstanding aggregate principal amount of the Notes.

ARTICLE VII

TRUSTEE

SECTION 7.01 Duties of Trustee.

(a) If an Event of Default has occurred and is continuing and is actually known to a Responsible Officer of the Trustee, the Trustee shall exercise the rights and powers vested in it by this Indenture and use the same degree of care and skill in its exercise as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

(b) Except during the continuance of an Event of Default actually known to the Trustee:

(1) the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Indenture and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(2) in the absence of gross negligence or willful misconduct on its part, as determined in a final and non-appealable order of a court of competent jurisdiction, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates, opinions or orders furnished to the Trustee and conforming to the requirements of this Indenture or the Notes, as the case may be. However, in the case of any such certificates or opinions which by any provisions hereof are specifically required to be furnished to the Trustee, the Trustee shall examine such certificates and opinions to determine whether or not they conform to the requirements of this Indenture or the Notes, as the case may be (but need not confirm or investigate the accuracy of mathematical calculations or other facts stated therein).

(c) The Trustee may not be relieved from liability for its own grossly negligent action, its own grossly negligent failure to act or its own willful misconduct, as determined in a final and non-appealable order of a court of competent jurisdiction, except that:

(1) this paragraph does not limit the effect of Section 7.01(b);

(2) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer of the Trustee unless it is proved that the Trustee was negligent in ascertaining the pertinent facts;

(3) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 6.05; and

(4) no provision of this Indenture or the Notes shall require the Trustee to expend or risk its own funds or otherwise incur financial liability in the performance of any of its duties hereunder or thereunder or in the exercise of any of its rights or powers, if it shall have reasonable grounds to believe that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(d) Every provision of this Indenture that in any way relates to the Trustee is subject to clauses (a), (b) and (c) of this Section 7.01.

(e) The Trustee shall not be liable (i) for interest on any money received by it except as the Trustee may agree in writing with the Issuer or for (ii) any exchange of currency or any foreign exchange risk.

(f) Every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Section 7.01.

SECTION 7.02 Rights of Trustee. Subject to Section 7.01:

(a) The Trustee may conclusively rely on and shall be fully protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, judgment, order or other paper or document (whether in its original, facsimile or other electronic form) reasonably believed by it to be genuine and to have been signed or presented by the proper Person. The Trustee need not investigate any fact or matter stated in the document. The Trustee shall receive and retain financial reports and statements of the Issuer or the Issuer, as applicable, as provided herein, but shall have no duty to review or analyze such reports or statements to determine compliance with covenants or other obligations of the Issuer.

(b) Before the Trustee acts or refrains from acting, it may require an Officer's Certificate and/or an Opinion of Counsel. The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on an Officer's Certificate or Opinion of Counsel.

(c) The Trustee may execute any of the trusts and powers hereunder or perform any duties hereunder either directly or by or through its attorneys and agents and shall not be responsible for the misconduct or negligence of any agent or attorney appointed with due care by it hereunder.

(d) The Trustee shall not be liable for any action it takes or omits to take in good faith which it believes to be authorized or within its rights or powers conferred upon it by this Indenture.

(e) The Trustee may consult with counsel of its selection, and the advice or opinion of counsel relating to this Indenture or the Notes shall be full and complete authorization and protection from liability in respect of any action taken, omitted or suffered by it hereunder or under the Notes in good faith and in accordance with the advice or opinion of such counsel.

(f) The Trustee shall not be deemed to have notice of any Default or Event of Default or whether any entity or group of entities constitutes a Material Subsidiary unless a Responsible Officer of the Trustee has actual knowledge thereof or unless written notice of any event which is in fact such a Default or of any such Material Subsidiary is actually received by a Responsible Officer of the Trustee at the corporate trust office of the Trustee specified in Section 3.12, and such notice references the Notes and this Indenture.

(g) The rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, and to each agent, custodian and other Person employed to act hereunder, including the Notes Collateral Agent.

(h) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture, the Notes or the Notes Security Documents at the request, order or direction of any of the Holders pursuant to the provisions of this Indenture, unless such Holders shall have offered, and, if requested, provided to the Trustee security or indemnity satisfactory to the Trustee against the costs, expenses and liabilities which may be incurred therein or thereby.

(i) The Trustee shall not be deemed to have knowledge of any fact or matter unless such fact or matter is known to a Responsible Officer of the Trustee.

(j) Whenever in the administration of this Indenture or the Notes the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder or thereunder, the Trustee (unless other evidence be herein specifically prescribed) may, in the absence of gross negligence or willful misconduct on its part (as determined by a final nonappealable order of a court of competent jurisdiction), conclusively rely upon an Officer's Certificate.

(k) The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, report, notice, request, direction, consent, judgment, order, bond, debenture, coupon or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine, during business hours and upon reasonable notice, the books, records and premises of the Issuer and the Restricted Subsidiaries, personally or by agent or attorney at the sole cost of the Issuer and shall incur no liability or additional liability of any kind by reason of such inquiry or investigation.

(l) The Trustee shall not be required to give any bond or surety in respect of the performance of its powers and duties hereunder.

(m) The Trustee may request that the Issuer deliver an Officer's Certificate setting forth the names of individuals and/or titles of officers authorized at such time to take specified actions pursuant to this Indenture or the Notes.

(n) In no event shall the Trustee be liable to any Person for special, punitive, indirect, consequential or incidental loss or damage of any kind whatsoever (including, but not limited to, lost profits), even if the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

(o) Unless otherwise specifically provided in this Indenture, any demand, request, direction or notice from the Issuer shall be sufficient if signed by one Officer of the Issuer.

(p) The permissive rights of the Trustee to take or refrain from taking any action enumerated in this Indenture and the other Note Documents shall not be construed as obligations or duties.

SECTION 7.03 Individual Rights of Trustee. The Trustee in its individual or any other capacity may become the owner or pledgee of Notes and may otherwise deal with the Issuer, Guarantors or their Affiliates with the same rights it would have if it were not Trustee. Any Paying Agent, Registrar, co-registrar or co-paying agent may do the same with like rights. However, the Trustee must comply with Sections 7.10 and 7.11. In addition, the Trustee shall be permitted to engage in transactions with the Issuer and its Affiliates and Subsidiaries.

SECTION 7.04 Trustee's Disclaimer. The Trustee shall not be responsible for and makes no representation as to the validity or adequacy of this Indenture or the Notes, shall not be accountable for the Issuer's use of the proceeds from the sale of the Notes, shall not be responsible for the use or application of any money received by any Paying Agent other than the Trustee or any money paid to the Issuer pursuant to the terms of this Indenture and shall not be responsible for any statement of the Issuer in this Indenture or in any document issued in connection with the sale of the Notes or in the Notes other than the Trustee's certificate of authentication.

SECTION 7.05 Notice of Defaults. If a Default or Event of Default occurs and is continuing and if a Responsible Officer of the Trustee has been informed in writing of such occurrence by the Issuer or has actual knowledge thereof, the Trustee shall send electronically or by first-class mail to each Holder at the address set forth in the Notes Register notice of the Default or Event of Default within 60 days after such notification or such date that it is actually known to a Responsible Officer of the Trustee. Except in the case of a Default or Event of Default in payment of principal of or interest, if any, on any Note (including payments pursuant to the optional redemption or required repurchase provisions of such Note), the Trustee may withhold the notice if and so long it determines that withholding the notice is in the interests of Holders.

SECTION 7.06 [Reserved].

SECTION 7.07 Compensation and Indemnity. The Issuer shall pay to the Trustee from time to time compensation for its services hereunder and under the Notes as the Issuer and the Trustee shall from time to time agree in writing. The Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust. The Issuer shall reimburse the Trustee upon request for all reasonable out-of-pocket expenses incurred or made by it, including, but not limited to, costs of collection, costs of preparing reports, certificates and other documents, costs of preparation and mailing of notices to Holders. Such expenses shall include the reasonable compensation and expenses, disbursements and advances of the agents, counsel, accountants and experts of the Trustee. The Issuer and the Guarantors, jointly and severally, shall indemnify the Trustee, its directors, officers, employees and agents against any and all loss, liability, damages, claims or expense, including taxes (other than taxes based upon the income of the Trustee) (including reasonable attorneys' and agents' fees and expenses) incurred by it without willful misconduct or gross negligence, as determined by a final nonappealable order of a court of competent jurisdiction, on its part in connection with the administration of this trust and the performance of its duties hereunder and under the Notes, including the costs and expenses of enforcing this Indenture (including this Section 7.07) and the Notes and of defending itself against any claims (whether asserted by any Holder, the Issuer, any Guarantor or otherwise). The Trustee shall notify the Issuer promptly of any claim for which it may seek indemnity of which it has received written notice. Failure by the Trustee to so notify the Issuer shall not relieve the Issuer of its obligations hereunder. The Issuer shall defend the claim and the Trustee shall provide reasonable cooperation at the Issuer's expense in the defense. The Trustee may have separate counsel and the Issuer shall pay the fees and expenses of such counsel; *provided* that the Issuer shall not be required to pay the fees and expenses of such separate counsel if it assumes the Trustee's defense, and, in the reasonable judgment of outside counsel to the Trustee, there is no conflict of interest between the Issuer and the Trustee in connection with such defense; *provided*, *further*, that, the Issuer shall be required to pay the reasonable fees and expenses of such counsel in evaluating such conflict.

To secure the Issuer's payment obligations in this Section 7.07, the Trustee shall have a lien prior to the Notes on all money or property held or collected by the Trustee other than money or property held in trust to pay principal of and interest on particular Notes. Such lien shall survive the satisfaction and discharge of this Indenture. The Trustee's respective right to receive payment of any amounts due under this Section 7.07 shall not be subordinate to any other liability or Indebtedness of the Issuer.

The Issuer's payment obligations pursuant to this Section 7.07 shall survive the discharge of this Indenture and any resignation or removal of the Trustee under Section 7.08. Without prejudice to any other rights available to the Trustee under applicable law, when the Trustee incurs fees, expenses or renders services after the occurrence of a Default specified in clause (7) or clause (8) of Section 6.01(a), the fees and expenses (including the reasonable fees and expenses of its counsel) are intended to constitute expenses of administration under any Bankruptcy Law.

SECTION 7.08 Replacement of Trustee. The Trustee may resign at any time by so notifying the Issuer in writing not less than 30 days' prior to the effective date of such resignation. The Holders of a majority in aggregate principal amount of the outstanding Notes may remove the Trustee by so notifying the removed Trustee in writing not less than 30 days prior to the effective date of such removal and may appoint a successor Trustee with the Issuer's written consent, which consent will not be unreasonably withheld. The Issuer may remove the Trustee (or any Holder, who has been a bona fide holder of a Note for at least six (6) months, may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee) if:

(1) the Trustee fails to comply with Section 7.10 hereof;

(2) the Trustee is adjudged bankrupt or insolvent;

(3) a receiver or other public officer takes charge of the Trustee or its property;

(4) the Trustee has or acquires a conflict of interest that is not promptly eliminated; or

(5) the Trustee otherwise becomes incapable of acting as Trustee.

If the Trustee resigns or is removed by the Issuer or by the Holders of a majority in principal amount of the outstanding Notes and such Holders do not reasonably promptly appoint a successor Trustee as described in the preceding paragraph, or if a vacancy exists in the office of the Trustee for any reason (the Trustee in such event being referred to herein as the retiring Trustee), the Issuer shall promptly appoint a successor Trustee.

A successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Issuer. Thereupon the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee shall have all the rights, powers and duties of the Trustee under this Indenture; *provided* that the removal or resignation of the Trustee shall not become effective until the acceptance of the appointment by the successor Trustee. The successor Trustee shall mail a notice of its succession to Holders. The retiring Trustee shall, at the expense of the Issuer, promptly transfer all property held by it as Trustee to the successor Trustee, subject to the lien provided for in Section 7.07.

If a successor Trustee does not take office within 60 days after the retiring Trustee resigns or is removed, the retiring Trustee or the Holders of at least 10.0% in aggregate principal amount of the Notes may petition, at the Issuer's expense, any court of competent jurisdiction for the appointment of a successor Trustee.

Notwithstanding the replacement of the Trustee pursuant to this Section 7.08, the Issuer's obligations under Section 7.07 shall continue for the benefit of the retiring Trustee. The predecessor Trustee shall have no liability for any action or inaction of any successor Trustee.

SECTION 7.09 Successor Trustee by Merger. Any organization or entity into which the Trustee may be merged or converted or with which it may be consolidated, or any organization or entity resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any organization or entity succeeding to all or substantially all of the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder, provided such organization or entity shall be otherwise qualified and eligible under this Article VII, without the execution or filing of any paper or any further act on the part of any of the parties hereto.

In case at the time such successor or successors by merger, conversion or consolidation to the Trustee shall succeed to the trusts created by this Indenture, any of the Notes shall have been authenticated but not delivered, any such successor to the Trustee may adopt the certificate of authentication of any predecessor trustee, and deliver such Notes so authenticated; and in case at that time any of the Notes shall not have been authenticated, any successor to the Trustee may authenticate such Notes either in the name of any predecessor hereunder or in the name of the successor to the Trustee; *provided* that the right to adopt the certificate of authentication of any predecessor Trustee or authenticate Notes in the name of any predecessor Trustee shall only apply to its successor or successors by merger, consolidation or conversion.

SECTION 7.10 Eligibility; Disqualification. This Indenture shall always have a Trustee. The Trustee shall have a combined capital and surplus of at least $100 million as set forth in its most recent published annual report of condition.

SECTION 7.11 Preferential Collection of Claims against the Issuer. The Trustee shall comply with Section 311(a) of the Trust Indenture Act, excluding any creditor relationship listed in Section 311(b) of the Trust Indenture Act. A Trustee who has resigned or been removed shall be subject to Section 311(a) of the Trust Indenture Act to the extent indicated.

SECTION 7.12 Trustee's Application for Instruction from the Issuer(a) . Any application by the Trustee for written instructions from the Issuer may, at the option of the Trustee, set forth in writing any action proposed to be taken or omitted by the Trustee under this Indenture and the date on and/or after which such action shall be taken or such omission shall be effective. The Trustee shall not be liable for any action taken by, or omission of, the Trustee in accordance with a proposal included in such application on or after the date specified in such application (which date shall not be less than three (3) Business Days after the date any Officer of the Issuer actually receives such application, unless any such Officer shall have consented in writing to any earlier date) unless prior to taking any such action (or the effective date in the case of an omission), the Trustee shall have received written instructions in response to such application specifying the action to be taken or omitted.

SECTION 7.13 Limitation on Duty of Trustee in Respect of Collateral; Indemnification.

(a) Neither the Trustee nor the Notes Collateral Agent shall have any liability or responsibility for the creation, maintenance, perfection, or maintenance of perfection of any security interest in the Collateral, including but not limited to the filing of any financing or continuation statements (which shall be filed by the Issuer).

(b) By their acceptance of the Notes, the Holders shall be deemed to have approved the terms of, and to have authorized the Trustee and the Notes Collateral Agent to enter into and to perform each of the Intercreditor Agreements and each Notes Security Document with the Issuer and the Subsidiary Guarantors. The Trustee and the Notes Collateral Agent shall not be responsible for and make no representation as to the existence, genuineness, value or protection of or insurance with respect to any Collateral, for the legality, effectiveness or sufficiency of this Indenture or any Notes Security Document, for any act or omission of the collateral agent for any Credit Facility, or for the creation, perfection, priority, sufficiency or protection of any Liens securing the Notes and the Notes Obligations. The Trustee and the Notes Collateral Agent shall not be responsible for filing any financing or continuation statements or recording any documents or instruments in any public office at any time or times or otherwise perfecting or maintaining the perfection of any Lien or security interest in the Collateral. The Trustee and the Notes Collateral Agent shall not be liable or responsible for the failure of the Issuer to effect or maintain insurance on the Collateral nor shall they be responsible for any loss by reason of want or insufficiency in insurance or by reason of the failure of any insurer in which the insurance is carried to pay the full amount of any loss against which it may have insured the Issuer, any Subsidiary Guarantor, the Trustee, the Notes Collateral Agent, or any other Person.

ARTICLE VIII

LEGAL DEFEASANCE AND COVENANT DEFEASANCE

SECTION 8.01 Option to Effect Legal Defeasance or Covenant Defeasance; Defeasance. The Issuer may, at its option and at any time, elect to have either Section 8.02 or 8.03 hereof be applied to all outstanding Notes upon compliance with the conditions set forth below in this Article VIII.

SECTION 8.02 Legal Defeasance and Discharge. Upon the Issuer's exercise under Section 8.01 hereof of the option applicable to this Section 8.02, the Issuer and each of the Guarantors will, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, be deemed to have been discharged from their obligations with respect to all outstanding Notes (including the Guarantees) on the date the conditions set forth below are satisfied (hereinafter, "Legal Defeasance"). For this purpose, Legal Defeasance means that the Issuer and the Guarantors will be deemed to have paid and discharged the entire Indebtedness represented by the outstanding Notes (including the Guarantees), which will thereafter be deemed to be "outstanding" only for the purposes of Section 8.05 hereof and the other Sections of this Indenture referred to in clauses (1) and (2) below, and to have satisfied all of their other obligations under the Note Documents (and the Trustee, on written demand of and at the expense of the Issuer, shall execute such instruments reasonably requested by the Issuer acknowledging the same) and to have cured all then existing Events of Default, except for the following provisions which will survive until otherwise terminated or discharged hereunder:

(1) the rights of Holders of Notes issued under this Indenture to receive payments in respect of the principal of, premium, if any, and interest, if any, on the Notes when such payments are due solely out of the trust referred to in Section 8.04 hereof;

(2) the Issuer's obligations with respect to the Notes under Article II concerning issuing temporary Notes, registration of such Notes, mutilated, destroyed, lost or stolen Notes and Section 3.12 hereof concerning the maintenance of an office or agency for payment and money for security payments held in trust;

(3) the rights, powers, trusts, duties, immunities and indemnities of the Trustee and the Issuer's or Guarantors' obligations in connection therewith; and

(4) this Article VIII with respect to provisions relating to Legal Defeasance.

SECTION 8.03 Covenant Defeasance. Upon the Issuer's exercise under Section 8.01 hereof of the option applicable to this Section 8.03, the Issuer and each of the Guarantors will, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, be released from each of their obligations under the covenants contained in Section 3.02, 3.03, 3.04, 3.05, 3.06, 3.07, 3.08, 3.09, 3.10, 3.16, 3.19, 3.20, 3.21 and Section 4.01 (except Section 4.01(a)(1) and (a)(2)) hereof with respect to the outstanding Notes on and after the date the conditions set forth in Section 8.04 hereof are satisfied (hereinafter, "Covenant Defeasance"), and the Notes will thereafter be deemed not "outstanding" for the purposes of any direction, waiver, consent or declaration or act of Holders (and the consequences of any thereof) in connection with such covenants, but will continue to be deemed "outstanding" for all other purposes hereunder. For this purpose, Covenant Defeasance means that, with respect to the outstanding Notes and Guarantees, the Issuer and the Guarantors may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such covenant to any other provision herein or in any other document and such omission to comply shall not constitute a Default or an Event of Default under Section 6.01(a) hereof, but, except as specified above, the remainder of this Indenture and such Notes and Guarantees will be unaffected thereby. In addition, upon the Issuer's exercise under Section 8.01 hereof of the option applicable to this Section 8.03, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, Sections 6.01(a)(3) (other than with respect to Section 4.01(a)(1) and (a)(2)), 6.01(a)(4), 6.01(a)(5), 6.01(a)(6), 6.01(a)(7), 6.01(a)(8) and 6.01(a)(9) hereof shall not constitute Events of Default.

If the Issuer exercises its Legal Defeasance option or its Covenant Defeasance option in accordance with the provisions of this Article VIII, the Collateral will automatically be released from the Lien securing the Notes Obligations (and, for the avoidance of doubt, the Issuer will not be obligated to comply with Section 3.13 or otherwise create or perfect any security interests as security for the Notes thereafter).

SECTION 8.04 Conditions to Legal or Covenant Defeasance. In order to exercise either Legal Defeasance or Covenant Defeasance, as applicable, under either Section 8.02 or 8.03 hereof:

(1) the Issuer must irrevocably deposit with the Trustee, in trust, for the benefit of the Holders, cash in Dollars, U.S. Government Obligations, or a combination thereof, in such amounts as will be sufficient, to pay the principal of and premium, if any, and interest, due on the Notes issued under this Indenture on the Stated Maturity date or on the applicable redemption date, as the case may be, and the Issuer must specify whether such Notes are being defeased to maturity or to a particular redemption date;

(2) in the case of Legal Defeasance, the Issuer shall have delivered to the Trustee an Opinion of Counsel to the effect that, subject to customary assumptions and exclusions;

(A) the Issuer has received from, or there has been published by, the United States Internal Revenue Service a ruling; or

(B) since the issuance of such Notes, there has been a change in the applicable U.S. federal income tax law;

in either case to the effect that, and based thereon such Opinion of Counsel shall confirm that, subject to customary assumptions and exclusions, the beneficial owners of the Notes, in their capacity as beneficial owners of the Notes, will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such Legal Defeasance and will be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred;

(3) in the case of Covenant Defeasance, the Issuer shall have delivered to the Trustee an Opinion of Counsel to the effect that, subject to customary assumptions and exclusions, the beneficial owners of the Notes will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such Covenant Defeasance and will be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred;

(4) no Default or Event of Default (other than that resulting from borrowing funds to be applied to make such deposit and the granting of Liens in connection therewith) shall have occurred and be continuing on the date of such deposit;

(5) such Legal Defeasance or Covenant Defeasance shall not result in a breach or violation of, or constitute a default under the Credit Facilities or any other material agreement or instrument (other than this Indenture) to which the Issuer or any Guarantor is a party or by which the Issuer or any Guarantor is bound;

(6) [reserved];

(7) the Issuer shall have delivered to the Trustee an Officer's Certificate to the effect that the deposit was not made by the Issuer with the intent of defeating, hindering, delaying, defrauding or preferring any creditors of the Issuer or any Guarantor; and

(8) the Issuer shall have delivered to the Trustee an Officer's Certificate and an Opinion of Counsel (which Opinion of Counsel may be subject to customary assumptions and exclusions) each stating that all conditions precedent provided for or relating to the Legal Defeasance or the Covenant Defeasance, as the case may be, have been complied with.

SECTION 8.05 Deposited Money and U.S. Government Obligations to be Held in Trust; Other Miscellaneous Provisions. Subject to Section 8.06 hereof, all money and U.S. Government Obligations (including the proceeds thereof) deposited with the Trustee (or other qualifying trustee, collectively for purposes of this Section 8.05, the "Trustee") pursuant to Section 8.04 hereof in respect of the outstanding Notes will be held in trust and applied by the Trustee, in accordance with the provisions of such Notes and this Indenture, to the payment, either directly or through any Paying Agent (including the Issuer acting as Paying Agent) as the Trustee may determine, to the Holders of such Notes of all sums due and to become due thereon in respect of principal, premium, and interest, but such money need not be segregated from other funds except to the extent required by law.

The Issuer will pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the cash or U.S. Government Obligations deposited pursuant to Section 8.04 hereof or the principal and interest received in respect thereof other than any such tax, fee or other charge which by law is for the account of the Holders of the outstanding Notes.

Notwithstanding anything in this Article VIII to the contrary, the Trustee will deliver or pay to the Issuer from time to time upon the request of the Issuer any money or U.S. Government Obligations held by it as provided in Section 8.04 hereof which, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee (which may be the opinion delivered under Section 8.04(1) hereof), are in excess of the amount thereof that would then be required to be deposited to effect an equivalent Legal Defeasance or Covenant Defeasance.

SECTION 8.06 Repayment to the Issuer. Any money deposited with the Trustee or any Paying Agent, or then held by the Issuer, in trust for the payment of the principal of, premium or interest on, any Note and remaining unclaimed for two years after such principal, premium or interest has become due and payable shall be paid to the Issuer on its written request unless an abandoned property law designates another Person or (if then held by the Issuer) will be discharged from such trust; and the Holder of such Note will thereafter be permitted to look only to the Issuer for payment thereof unless an abandoned property law designates another Person, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Issuer as trustee thereof, will thereupon cease; *provided*, *however*, that the Issuer, before being required to make any such repayment, shall at its own expense cause to be published once, in The New York Times and The Wall Street Journal (national edition), notice that such money remains unclaimed and that, after a date specified therein, which will not be less than 30 days from the date of such notification or publication, any unclaimed balance of such money then remaining will be repaid to the Issuer.

SECTION 8.07 Reinstatement. If the Trustee or Paying Agent is unable to apply any money or Dollars or U.S. Government Obligations in accordance with Section 8.02 or 8.03 hereof, as the case may be, by reason of any order or judgment of any court or Governmental Authority enjoining, restraining or otherwise prohibiting such application, then the Issuer's and the Guarantors' obligations under this Indenture and the Notes and the Guarantees will be revived and reinstated as though no deposit had occurred pursuant to Section 8.02 or 8.03 hereof until such time as the Trustee or Paying Agent is permitted to apply all such money in accordance with Section 8.02 or 8.03 hereof, as the case may be; *provided*, *however*, that, if the Issuer make any payment of principal of, premium, or interest on, any Note following the reinstatement of its obligations, the Issuer will be subrogated to the rights of the Holders of such Notes to receive such payment from the money or U.S. Government Obligations held by the Trustee or Paying Agent.

ARTICLE IX

AMENDMENTS

SECTION 9.01 Without Consent of Holders. Notwithstanding Section 9.02 of this Indenture, the Issuer and the Trustee or the Notes Collateral Agent, as applicable, may amend, supplement or modify this Indenture, any Guarantee, the Notes, and any other Note Document without the consent of any Holder to:

(1) cure any ambiguity, omission, mistake, defect, error or inconsistency, conform any provision to any provision under the heading "Description of Notes" in the Offering Memorandum or reduce the minimum denomination of the Notes;

(2) provide for the assumption by a Successor Company of the obligations of the Issuer or a Guarantor under any Note Document or to comply with Section 4.01;

(3) provide for uncertificated Notes in addition to or in place of certificated Notes or to alter the provisions of this Indenture relating to the form of the Notes (including related definitions);

(4) add to or modify the covenants or provide for a Note Guarantee for the benefit of the Holders or to surrender any right or power conferred upon the Issuer or any Restricted Subsidiary;

(5) make any change (including changing the CUSIP or other identifying number on any Notes) that would provide any additional rights or benefits to the Holders or that does not materially and adversely affect the rights of any Holder in any material respect;

(6) at the Issuer's election, comply with any requirement of the SEC in connection with the qualification of this Indenture under the Trust Indenture Act, if such qualification is required;

(7) make such provisions as necessary for the issuance of Additional Notes;

(8) provide for any Restricted Subsidiary to provide a Guarantee in accordance with Section 3.07, to add Guarantees with respect to the Notes, to add security to or for the benefit of the Notes, or to confirm and evidence the release, termination, subordination, discharge or retaking of any Guarantee or Lien with respect to or securing the Notes when such release, termination, subordination, discharge or retaking is provided for under this Indenture;

(9) evidence and provide for the acceptance and appointment under this Indenture of a successor Trustee or successor Paying Agent hereunder pursuant to the requirements hereof or to provide for the accession by the Trustee to any Note Document;

(10) (a) to add additional assets as Collateral or add any security for the First Lien Obligations or make, complete or confirm any grant of security interest in any property or assets as additional Collateral securing the obligations under this Indenture, the Notes, the Guarantees and the Notes Security Documents, including when permitted or required by this Indenture or any of the Notes Security Documents and (b) to release Collateral from the Lien pursuant to this Indenture, the Notes Security Documents and the First Lien Pari Passu Intercreditor Agreement when permitted or required by this Indenture, the Notes Security Documents or the First Lien Pari Passu Intercreditor Agreement;

(11) (a) add an obligor or a Guarantor under this Indenture and (b) when permitted or required by this Indenture, to release any Guarantor from its Guarantee pursuant to this Indenture;

(12) make any amendment to the provisions of this Indenture relating to the transfer and legending of Notes not prohibited by this Indenture, including to facilitate the issuance and administration of Notes; *provided*, *however*, that such amendment does not materially and adversely affect the rights of Holders to transfer the Notes;

(13) comply with the rules and procedures of any applicable securities depositary;

(14) to effect a release of the BD Guarantee upon the satisfaction of the BD Guarantee Release Condition as described under Article X or in the Parent Guaranty Agreement;

(15) make any amendment to the provisions of this Indenture, the Guarantees and/or the Notes to eliminate the effect of any Accounting Change or in the application thereof as described in the last paragraph of the definition of "GAAP"; or

(16) execute or amend any Intercreditor Agreement and the Notes Security Documents to provide for the addition of any creditors to such agreements to the extent a Lien for the benefit of such creditor is permitted by the terms of this Indenture or otherwise under the circumstances provided for therein.

Subject to Section 9.02, upon the request of the Issuer and upon receipt by the Trustee and the Notes Collateral Agent of the documents described in Sections 9.06 and 13.02 hereof, the Trustee and the Notes Collateral Agent will join with the Issuer and the Guarantors in the execution of such amended or supplemental indenture unless such amended or supplemental indenture affects the Trustee's or the Notes Collateral Agent's own rights, duties, liabilities or immunities under this Indenture or otherwise, in which case each of the Trustee or the Notes Collateral Agent may in its discretion, but will not be obligated to, enter into such amended or supplemental indenture.

SECTION 9.02 With Consent of Holders. Except as provided below in this Section 9.02, the Issuer, the Guarantors and the Trustee or the Notes Collateral Agent, as applicable, may amend or supplement this Indenture, any Guarantee, the Notes issued hereunder and any other Note Document with the consent of the Holders of at least a majority in principal amount of all the outstanding Notes issued under this Indenture, including, without limitation, consents obtained before or after a Change of Control or in connection with a purchase of, or tender offer or exchange offer for, Notes, and any existing Default or Event of Default or compliance with any provision of this Indenture, the Notes, the Guarantees and any other Note Document may be waived with the consent of the Holders of at least a majority in principal amount of all the outstanding Notes issued under this Indenture (including consents obtained before or after a Change of Control or in connection with a purchase of or tender offer or exchange offer for Notes). Section 2.12 hereof and Section 13.04 hereof shall determine which Notes are considered to be "outstanding" for the purposes of this Section 9.02.

Upon the request of the Issuer, and upon delivery to the Trustee and the Notes Collateral Agent of evidence of the consent of the Holders of Notes as aforesaid, and upon receipt by the Trustee and the Notes Collateral Agent of the documents described in Section 9.06 and Section 13.02 hereof, the Trustee and the Notes Collateral Agent will join with the Issuer and the Guarantors in the execution of such amended or supplemental indenture unless such amended or supplemental indenture affects the Trustee's or the Notes Collateral Agent's own rights, duties, liabilities or immunities under this Indenture or otherwise, in which case each of the Trustee or the Notes Collateral Agent may in its discretion, but will not be obligated to, enter into such amended or supplemental indenture.

Without the consent of each Holder of Notes affected, an amendment, supplement or waiver may not, with respect to any Notes issued hereunder and held by a nonconsenting Holder:

(1) reduce the principal amount of such Notes whose Holders must consent to an amendment;

(2) reduce the stated rate of or extend the stated time for payment of interest on any such Note (other than provisions relating to Section 3.05 and Section 3.09);

(3) reduce the principal of or extend the Stated Maturity of any such Note (other than provisions relating to Section 3.05 and Section 3.09);

(4) reduce the premium payable upon the redemption of any such Note or change the time at which any such Note may be redeemed, in each case as set forth in Section 5.07;

(5) make any such Note payable in currency other than that stated in such Note;

(6) impair the right of any Holder to institute suit for the enforcement of any payment of principal of and interest on such Holder's Notes on or after the due dates therefor;

(7) waive a Default or Event of Default with respect to the nonpayment of principal, premium or interest (except pursuant to a rescission of acceleration of the Notes by the Holders of at least a majority in aggregate principal amount of such Notes outstanding and a waiver of the payment default that resulted from such acceleration); or

(8) except as contemplated by this Indenture, (i) release all or substantially all of the Guarantors from their Guarantees, or (ii) release the BD Guarantee prior to the satisfaction of the BD Guarantee Release Condition.

In addition, without the consent of holders of at least 66 2/3% in principal amount of the Notes then outstanding (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, notes), no amendment, supplement or waiver may modify any Notes Security Documents or the provisions in this Indenture dealing with Collateral or the Notes Security Documents to the extent that such amendment, supplement or waiver would have the effect of releasing Liens on all or substantially all of the Collateral securing the Notes (except as expressly provided by this Indenture, the Notes Security Documents or the First Lien Pari Passu Intercreditor Agreement) or change or alter the priority of the security interests in the Collateral.

Notwithstanding anything to the contrary herein, the provisions of this Indenture relative to the Issuer's obligation to (i) make a Change of Control Offer may be amended, supplemented, waived or modified with the written consent of Holders of at least a majority in principal amount of all the outstanding Notes issued under this Indenture and (ii) make an offer to repurchase the Notes as a result of an Asset Disposition may be amended, supplemented, waived or modified with the written consent of the Holders of at least a majority in principal amount of the Notes then outstanding.

It shall not be necessary for the consent of the Holders under this Indenture to approve the particular form of any proposed amendment, supplement or waiver, but it shall be sufficient if such consent approves the substance thereof. A consent to any amendment, supplement or waiver under this Indenture by any Holder of the Notes given in connection with a tender or exchange of such Holder's Notes will not be rendered invalid by such tender or exchange.

SECTION 9.03 [Reserved].

SECTION 9.04 Revocation and Effect of Consents and Waivers. Until an amendment, supplement or waiver becomes effective, a consent to it by a Holder of a Note is a continuing consent by the Holder of a Note and every subsequent Holder of a Note or portion of a Note that evidences the same debt as the consenting Holder's Note, even if notation of the consent or waiver is not made on any Note. However, any such Holder of a Note or subsequent Holder of a Note may revoke the consent or waiver as to such Holder's Note or portion of its Note if the Trustee receives written notice of revocation before the date the amendment, supplement or waiver becomes effective. An amendment, supplement or waiver becomes effective in accordance with its terms and thereafter binds every Holder.

The Issuer may, but shall not be obligated to, fix a record date for the purpose of determining the Holders entitled to give their consent or take any other action described in this Section 9.04 or required or permitted to be taken pursuant to this Indenture. If a record date is fixed, then notwithstanding the immediately preceding paragraph, those Persons who were Holders at such record date (or their duly designated proxies), and only those Persons, shall be entitled to give such consent or to revoke any consent previously given or to take any such action, whether or not such Persons continue to be Holders after such record date. No such consent shall be valid or effective for more than 120 days after such record date.

SECTION 9.05 Notation on or Exchange of Notes. The Trustee may place an appropriate notation about an amendment, supplement or waiver on any Note thereafter authenticated. The Issuer in exchange for all Notes may issue and the Trustee shall, upon receipt of an Issuer Order, authenticate new Notes that reflect the amendment, supplement or waiver.

Failure to make the appropriate notation or issue a new Note will not affect the validity and effect of such amendment, supplement or waiver.

SECTION 9.06 Trustee and Notes Collateral Agent to Sign Amendments. The Trustee and Notes Collateral Agent, as applicable, shall sign any amended or supplemental indenture authorized pursuant to this Article IX if the amendment or supplement does not adversely affect the rights, duties, liabilities or immunities of the Trustee or Notes Collateral Agent, as applicable, in which case the Trustee or Notes Collateral Agent, as applicable, may in its discretion, but will not be obligated to, enter into such amended or supplemental indenture. In executing any amended or supplemental indenture, the Trustee or Notes Collateral Agent, as applicable, will be entitled to receive and (subject to Sections 7.01 and 7.02 hereof) shall be fully protected in conclusively relying upon, in addition to the documents required by Section 13.02 hereof, an Officer's Certificate and an Opinion of Counsel stating that the execution of such amended or supplemental indenture is authorized or permitted by this Indenture and is valid, binding and enforceable against the Issuer or any Guarantor, as the case may be, in accordance with its terms. Notwithstanding the foregoing, no Opinion of Counsel shall be required in connection with the Supplemental Indenture to be delivered pursuant to Section 10.01(b).

ARTICLE X

GUARANTEE

SECTION 10.01 Guarantee.

(a) On the Issue Date, BD shall execute and deliver to the Trustee the Parent Guaranty Agreement, pursuant to which the Notes will initially be guaranteed on an unsecured, unsubordinated basis by BD. Pursuant to the BD Guarantee as set forth in the Parent Guaranty Agreement, BD will unconditionally guarantee on an unsecured, unsubordinated basis, the full and punctual payment when due, whether at stated maturity, by acceleration or otherwise, of principal of, premium, if any, and interest on the Notes and the other Obligations of the Issuer under this Indenture and the Notes. Pursuant to the Parent Guaranty Agreement, the BD Guarantee will be automatically and unconditionally terminated and released, without any action on the part of the Trustee, any Holder of the Notes or any other Person, upon the earliest to occur of (i) the consummation of the Spin-Off or (ii) the consummation of a legal defeasance or covenant defeasance relating to the Notes as described under Article VIII or the discharge of this Indenture with respect to the Notes as described under Article XI or otherwise in accordance with the provisions of this Indenture (the "BD Guarantee Release Condition"; the date upon which the BD Guarantee is terminated and released in accordance with its terms, the "BD Guarantee Release Date"). Any term or provision of this Indenture to the contrary notwithstanding, the obligations of BD hereunder and under the Parent Guaranty Agreement shall be limited to the maximum amount as will, after giving effect to all other contingent and fixed liabilities of BD, result in the obligations of BD under the BD Guarantee not constituting a fraudulent conveyance or fraudulent transfer under federal, foreign, state or provincial law and not otherwise being void or voidable under any similar laws affecting the rights of creditors generally.

(b) On the Spin-Off Date, each of the Subsidiaries of the Issuer that is required to guarantee the obligations under the Credit Agreement on or in connection with the Spin-Off Date shall execute and deliver to the Trustee the supplemental indenture, dated as of the Spin-Off Date, substantially in the form attached hereto as Exhibit B (the "Supplemental Indenture" and each such Subsidiary, a "Subsidiary Guarantor" and collectively, the "Subsidiary Guarantors" and such guarantees therefrom, the "Subsidiary Guarantees").

(c) Subject to the provisions of this Article X, from and after the Spin-Off Date, by its execution of a supplemental indenture pursuant to which it agrees to become a Guarantor hereunder, each Guarantor hereby fully, unconditionally and irrevocably guarantee on a senior secured basis, as primary obligor and not merely as surety, jointly and severally with each other Guarantor, to each Holder, and the Trustee and the Notes Collateral Agent the full and punctual payment when due, whether at maturity, by acceleration, by redemption or otherwise (including the amount that would become due but for the operation of the automatic stay under Section 362(a) of the Bankruptcy Law), of the principal of, premium, if any, and interest on the Notes and all other Obligations and liabilities of the Issuer under this Indenture and the Notes when and as the same shall be due and payable (including without limitation interest accruing after the filing of any petition in bankruptcy, or the commencement of any insolvency, reorganization or like proceeding, relating to the Issuer or any Guarantor whether or not a claim for post-filing or post-petition interest is allowed in such proceeding and the obligations under Section 7.07) (all the foregoing being hereinafter collectively called the "Guaranteed Obligations").

The Guaranteed Obligations of each Subsidiary Guarantor shall be secured by a first-priority security interest (subject to Permitted Liens) in the Collateral owned by such Guarantor on a *pari passu* basis with the other First Lien Obligations pursuant to the terms of the Notes Security Documents and the First Lien Pari Passu Intercreditor Agreement. Each Guarantor agrees that the Guaranteed Obligations will rank equally in right of payment with other Indebtedness of such Guarantor, except to the extent such other Indebtedness is subordinate to the Guaranteed Obligations, in which case the obligations of the Guarantors under the Guarantees will rank senior in right of payment to such other Indebtedness.

To evidence its Guarantee set forth in this Section 10.01, each Guarantor hereby agrees that this Indenture or any supplemental indenture, as applicable, shall be executed on behalf of such Guarantor by an Officer of such Guarantor.

Each Guarantor hereby agrees that its Guarantee set forth in this Section 10.01 shall remain in full force and effect notwithstanding the absence of the endorsement of any notation of such Guarantee on the Notes.

If an Officer whose signature is on this Indenture or any supplemental indenture, as applicable, no longer holds that office at the time the Trustee authenticates the Note, the Guarantee shall be valid nevertheless.

Each Guarantor further agrees (to the extent permitted by law) that the Guaranteed Obligations may be extended or renewed, in whole or in part, without notice or further assent from it, and that it will remain bound under this Article X notwithstanding any extension or renewal of any Guaranteed Obligation.

Each Guarantor waives presentation to, demand of payment from and protest to the Issuer of any of the Guaranteed Obligations and also waives notice of protest for nonpayment. Each Guarantor waives notice of any default under the Notes or the Guaranteed Obligations.

Each Guarantor further agrees that its Guarantee herein constitutes a Guarantee of payment when due (and not a Guarantee of collection) and waives any right to require that any resort be had by any Holder to any security held for payment of the Guaranteed Obligations.

Except as set forth in Section 10.02, the obligations of each Guarantor hereunder shall not be subject to any reduction, limitation, impairment or termination for any reason (other than payment of the Guaranteed Obligations in full), including any claim of waiver, release, surrender, alteration or compromise, and shall not be subject to any defense of setoff, counterclaim, recoupment or termination whatsoever or by reason of the invalidity, illegality or unenforceability of the Guaranteed Obligations or otherwise. Without limiting the generality of the foregoing, the Guaranteed Obligations of each Guarantor herein shall not be discharged or impaired or otherwise affected by (a) the failure of any Holder to assert any claim or demand or to enforce any right or remedy against the Issuer or any other person under this Indenture, the Notes or any other agreement or otherwise; (b) any extension or renewal of any thereof; (c) any rescission, waiver, amendment or modification of any of the terms or provisions of this Indenture, the Notes or any other agreement; (d) the release of any security held by any Holder for the Guaranteed Obligations; (e) the failure of any Holder to exercise any right or remedy against any other Guarantor; (f) any change in the ownership of the Issuer; (g) any default, failure or delay, willful or otherwise, in the performance of the Guaranteed Obligations; or (h) any other act or thing or omission or delay to do any other act or thing which may or might in any manner or to any extent vary the risk of any Guarantor or would otherwise operate as a discharge of such Guarantor as a matter of law or equity.

Each Guarantor agrees that its Guarantee herein shall remain in full force and effect until payment in full of all the Guaranteed Obligations or such Guarantor is released from its Guarantee in compliance with Section 10.02, Article VIII or Article XI. Each Guarantor further agrees that its Guarantee herein shall continue to be effective or be reinstated, as the case may be, if at any time payment, or any part thereof, of principal of, premium, if any, or interest on any of the Guaranteed Obligations is rescinded or must otherwise be restored by any Holder upon the bankruptcy or reorganization of the Issuer or otherwise.

In furtherance of the foregoing and not in limitation of any other right which any Holder has at law or in equity against any Guarantor by virtue hereof, upon the failure of the Issuer to pay any of the Guaranteed Obligations when and as the same shall become due, whether at maturity, by acceleration, by redemption or otherwise, each Guarantor hereby promises to and will, upon receipt of written demand by the Trustee, forthwith pay, or cause to be paid, in cash, to the Holders or the Trustee on behalf of the Holders an amount equal to the sum of (i) the unpaid amount of such Guaranteed Obligations then due and owing and (ii) (without duplication of the amounts described in the preceding clause (i)) accrued and unpaid interest on such Guaranteed Obligations then due and owing (but only to the extent not prohibited by law) (including interest accruing after the filing of any petition in bankruptcy or the commencement of any insolvency, reorganization or like proceeding relating to the Issuer or any Guarantor whether or not a claim for post-filing or post-petition interest is allowed in such proceeding).

Each Guarantor further agrees that, as between such Guarantor, on the one hand, and the Holders, on the other hand, (x) the maturity of the Guaranteed Obligations guaranteed hereby may be accelerated as provided in this Indenture for the purposes of its Guarantee herein, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the Guaranteed Obligations guaranteed hereby and (y) in the event of any such declaration of acceleration of such Guaranteed Obligations, such Guaranteed Obligations (whether or not due and payable) shall forthwith become due and payable by the Guarantor for the purposes of this Guarantee.

Each Guarantor also agrees to pay any and all fees, costs and expenses (including attorneys' fees and expenses) incurred by the Trustee, the Notes Collateral Agent or the Holders in enforcing any rights under this Section 10.01.

SECTION 10.02 Limitation on Liability; Termination, Release and Discharge.

(a) Any term or provision of this Indenture to the contrary notwithstanding, the obligations of each Guarantor hereunder will be limited to the maximum amount as will, after giving effect to all other contingent and fixed liabilities of such Guarantor and after giving effect to any collections from or payments made by or on behalf of any other Guarantor in respect of the obligations of such other Guarantor under its Guarantee or pursuant to its contribution obligations under this Indenture, result in the obligations of such Guarantor under its Guarantee not constituting a fraudulent conveyance or fraudulent transfer under federal, foreign, state or provincial law and not otherwise being void or voidable under any similar laws affecting the rights of creditors generally.

(b) Any Note Guarantee of a Guarantor shall be automatically and unconditionally released and discharged upon:

(1) a sale, exchange, transfer or other disposition (including by way of merger, amalgamation, consolidation, dividend distribution or otherwise) of the Capital Stock of such Guarantor or the sale, exchange, transfer or other disposition of all or substantially all of the assets of the Guarantor to a Person other than to the Issuer or a Restricted Subsidiary if such sale, exchange, transfer or other disposition is not prohibited by this Indenture;

(2) the designation in accordance with this Indenture of the Guarantor as an Unrestricted Subsidiary or the occurrence of any event not prohibited by this Indenture after which the Guarantor is no longer a Restricted Subsidiary;

(3) defeasance or discharge of the Notes pursuant to Article VIII or Article XI;

(4) to the extent that such Guarantor is not an Immaterial Subsidiary solely due to the operation of clause (i) of the definition of "Immaterial Subsidiary," upon the release of the guarantee referred to in such clause;

(5) such Guarantor being (or being substantially concurrently) released or discharged from all of its Guarantees of payment (i) by the Issuer of any Indebtedness of the Issuer under the Credit Agreement and (ii) its guarantee of all other Indebtedness of the Issuer or a Guarantor guaranteed pursuant to Section 3.07 hereof, except in the case of clause (i) or (ii) above, a release as a result of payment under such Guarantee (it being understood that a release subject to a contingent reinstatement is still considered a release);

(6) upon the merger, amalgamation or consolidation of any Guarantor with and into the Issuer or another Guarantor or upon the liquidation of such Guarantor, in each case, in compliance with the applicable provisions of this Indenture;

(7) the occurrence of a Covenant Suspension Event; *provided* that following a Reversion Date, if any, each such Note Guarantee of any Guarantor shall be reinstated to the extent and within the time frame required under Section 3.07;

(8) as described under Article IX;

(9) to the extent that such Guarantor has become an Excluded Subsidiary as a result of a transaction or designation in compliance with the applicable provisions of this Indenture;

(10) upon payment in full of the principal amount of the Notes outstanding at such time, plus accrued and unpaid interest, if any, to, but excluding, the applicable payment or redemption date, and all other Obligations under this Indenture, the Guarantees and the Notes Security Documents that are due and payable at or prior to the time such principal, together with accrued and unpaid interest, is paid, whether by redemption or otherwise in accordance with this Indenture;

(11) to the extent that such Guarantor has provided a Note Guarantee in the Issuer's discretion in accordance with Section 3.07(b), upon the Issuer's delivering written notice to the Trustee of its election to release such Guarantor from its Note Guarantee, so long as any Indebtedness of such Subsidiary then outstanding could have been incurred by such Subsidiary (either (x) when so incurred or (y) at the time of the release of such Guarantee) and such Subsidiary is not otherwise required to be a Guarantor at the time of such release in accordance with the provisions of this Indenture.

(c) The Issuer shall provide the Trustee and the Notes Collateral Agent with written notice of any release of a Guarantor; *provided* that failure to deliver such notice shall not affect such release.

SECTION 10.03 Right of Contribution. Each Guarantor hereby agrees that to the extent that any Guarantor shall have paid more than its proportionate share of any payment made on the obligations under the Guarantees, such Guarantor shall be entitled to seek and receive contribution from and against the Issuer or any other Guarantor who has not paid its proportionate share of such payment. The provisions of this Section 10.03 shall in no respect limit the obligations and liabilities of each Guarantor to the Trustee and the Holders and each Guarantor shall remain liable to the Trustee and the Holders for the full amount guaranteed by such Guarantor hereunder.

SECTION 10.04 No Subrogation. Notwithstanding any payment or payments made by each Guarantor hereunder, no Guarantor shall be entitled to be subrogated to any of the rights of the Trustee or any Holder against the Issuer or any other Guarantor or any collateral security or guarantee or right of offset held by the Trustee or any Holder for the payment of the Guaranteed Obligations, nor shall any Guarantor seek or be entitled to seek any contribution or reimbursement from the Issuer or any other Guarantor in respect of payments made by such Guarantor hereunder, until all amounts owing to the Trustee and the Holders by the Issuer on account of the Guaranteed Obligations are paid in full. If any amount shall be paid to any Guarantor on account of such subrogation rights at any time when all of the Guaranteed Obligations shall not have been paid in full, such amount shall be held by such Guarantor in trust for the Trustee and the Holders, segregated from other funds of such Guarantor, and shall, forthwith upon receipt by such Guarantor, be turned over to the Trustee in the exact form received by such Guarantor (duly indorsed by such Guarantor to the Trustee, if required), to be applied against the Guaranteed Obligations.

ARTICLE XI

SATISFACTION AND DISCHARGE

SECTION 11.01 Satisfaction and Discharge. This Indenture will be discharged and will cease to be of further effect as to all Notes issued hereunder, when:

(a) either:

(1) all Notes that have been authenticated and delivered, except lost, stolen or destroyed Notes that have been replaced or paid and Notes for whose payment money has theretofore been deposited in trust, have been delivered to the Trustee for cancellation; or

(2) all such Notes not theretofore delivered to the Trustee for cancellation (i) have become due and payable by reason of the making of a notice of redemption or otherwise, (ii) will become due and payable within one year at their Stated Maturity or (iii) are to be called for redemption within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption by the Trustee, in the name, and at the expense of the Issuer;

(b) the Issuer has irrevocably deposited or caused to be deposited with the Trustee as trust funds in trust solely for the benefit of the Holders, cash in Dollars, U.S. Government Obligations, or a combination thereof, in such amounts as will be sufficient, without consideration of any reinvestment of interest, to pay and discharge the entire indebtedness on such Notes not previously delivered to the Trustee for cancellation, for principal, premium, if any, and interest to the date of deposit (in the case of Notes that have become due and payable), or to the Stated Maturity or redemption date, as the case may be;

(c) no Default or Event of Default with respect to the Issuer specified in clause (7) or clause (8) of Section 6.01(a) shall have occurred and be continuing on the date of such deposit;

(d) the Issuer has paid or caused to be paid all sums payable by the Issuer under this Indenture; and

(e) the Issuer has delivered irrevocable instructions to the Trustee to apply the deposited money in Dollars toward the payment of such Notes issued hereunder at maturity or the redemption date, as the case may be.

In addition, the Issuer shall deliver an Officer's Certificate and an Opinion of Counsel to the Trustee stating that all conditions precedent to satisfaction and discharge have been satisfied; *provided* that any such counsel may rely on any Officer's Certificate as to matters of fact (including as to compliance with the clauses (a) through (e)).

Notwithstanding the satisfaction and discharge of this Indenture, the Issuer's obligations to the Trustee in Section 7.07 hereof and, if money in Dollars has been deposited with the Trustee pursuant to clause (a)(2) of this Section 11.01, the provisions of Sections 11.02 and 8.06 hereof will survive.

The Collateral shall be released from the Lien securing the Notes as provided herein upon a discharge in accordance with the provisions of this Section 11.01.

SECTION 11.02 Application of Trust Money. Subject to the provisions of Section 8.06 hereof, all money in Dollars or U.S. Government Obligations deposited with the Trustee pursuant to Section 11.01 hereof shall be held in trust and applied by it, in accordance with the provisions of the Notes and this Indenture, to the payment, either directly or through any Paying Agent (including the Issuer acting as its own Paying Agent) as the Trustee may determine, to the Persons entitled thereto, of the principal (and premium) and interest for whose payment such money in Dollars or U.S. Government Obligations has been deposited with the Trustee; but such money in Dollars or U.S. Government Obligations need not be segregated from other funds except to the extent required by law.

If the Trustee or Paying Agent is unable to apply any money or U.S. Government Obligations in accordance with Section 11.01 hereof by reason of any legal proceeding or by reason of any order or judgment of any court or Governmental Authority enjoining, restraining or otherwise prohibiting such application, the Issuer's and any Guarantor's obligations under this Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 11.01 hereof; *provided* that if the Issuer have made any payment of principal of, premium or interest on, any Notes because of the reinstatement of its obligations, the Issuer shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money or U.S. Government Obligations held by the Trustee or Paying Agent.

ARTICLE XII

COLLATERAL

SECTION 12.01 Security Documents.

(a) From and after the Spin-Off Date, the due and punctual payment of the principal of, premium and interest on the Notes when and as the same shall be due and payable, whether on an interest payment date, at maturity, by acceleration, repurchase, redemption or otherwise, and interest on the overdue principal of, premium and interest on the Notes and performance of all other Notes Obligations of the Issuer and the Guarantors to the Notes Secured Parties under this Indenture, the Notes, the Guarantees and the Notes Security Documents, according to the terms hereunder or thereunder, shall be secured as provided in the Notes Security Documents, which will define the terms of the Liens that secure the Notes Obligations, subject to the terms of the First Lien Pari Passu Intercreditor Agreement. The Trustee and the Issuer hereby acknowledge and agree that the Notes Collateral Agent will from and after the Spin-Off Date hold the Collateral in trust for the benefit of the Notes Secured Parties and pursuant to the terms of this Indenture and the Notes Security Documents.

Each Holder, by accepting a Note, and each beneficial owner of an interest in a Note, consents and agrees to the terms of the Notes Security Documents (including the provisions providing for the possession, use, release and foreclosure of Collateral) and the First Lien Pari Passu Intercreditor Agreement as the same may be in effect or may be amended from time to time in accordance with their terms and this Indenture and the First Lien Pari Passu Intercreditor Agreement, and authorizes and directs the Notes Collateral Agent to enter into the Notes Security Documents and the First Lien Pari Passu Intercreditor Agreement and to perform its obligations and exercise its rights thereunder in accordance therewith. Subject to the Perfection Exceptions and the limitations set forth in the Notes Security Documents, from and after the Spin-Off Date, the Issuer shall deliver to the Notes Collateral Agent copies of all documents required to be filed pursuant to the Notes Security Documents, and will do or cause to be done all such acts and things as may be reasonably required by the next sentence of this Section 12.01, to provide to the Notes Collateral Agent the security interest in the Collateral contemplated hereby and/or by the Notes Security Documents or any part thereof, as from time to time constituted, so as to render the same available for the security and benefit of this Indenture and of the Notes secured hereby, according to the intent and purposes herein expressed. Subject to the Perfection Exceptions and the limitations set forth in the Notes Security Documents, from and after the Spin-Off Date, the Issuer shall, and shall cause the Subsidiaries of the Issuer to, take any and all actions and make all filings (including, without limitation, the filing of UCC financing statements, continuation statements and amendments thereto) required to cause the Notes Security Documents to create and maintain, as security for the Notes Obligations of the Issuer and the Guarantors to the Secured Parties, a valid and enforceable perfected Lien and security interest in and on all of the Collateral (subject to the terms of the Notes Security Documents), in favor of the Notes Collateral Agent for the benefit of the Notes Secured Parties subject to no Liens other than Permitted Liens.

(b) Notwithstanding any provision hereof to the contrary, the provisions of this Section 12.01 are qualified in their entirety by the Perfection Exceptions and neither the Issuer nor any Guarantor shall be required pursuant to this Indenture or any Notes Security Document to take any action limited by the Perfection Exceptions.

SECTION 12.02 Notes Collateral Agent.

(a) Each of the Holders by acceptance of the Notes, and each beneficial owner of an interest in a Note, hereby designates and appoint the Notes Collateral Agent as its agent under this Indenture and the Note Documents and each of the Holders by acceptance of the Notes hereby irrevocably authorizes the Notes Collateral Agent to take such action on its behalf under the provisions of this Indenture and the Note Documents and to exercise such powers and perform such duties as are expressly delegated to the Notes Collateral Agent by the terms of this Indenture and the Note Documents, and consents and agrees to the terms of each Notes Security Document, as the same may be in effect or may be amended, restated, supplemented or otherwise modified from time to time in accordance with its respective terms or the terms of this Indenture. The Notes Collateral Agent agrees to act as such on the express conditions contained in this Section 12.02. The provisions of this Section 12.02 are solely for the benefit of the Notes Collateral Agent and the Trustee, and none of the Holders nor the Issuer or the Guarantors shall have any rights as a third party beneficiary of any of the provisions contained herein. Each Holder agrees that any action taken by the Notes Collateral Agent in accordance with the provisions of this Indenture and/or the applicable Note Documents, and the exercise by the Notes Collateral Agent of any rights or remedies set forth herein and therein shall be authorized and binding upon all Holders. Notwithstanding any provision to the contrary contained elsewhere in this Indenture or the Note Documents, the duties of the Notes Collateral Agent shall be ministerial and administrative in nature, and the Notes Collateral Agent shall not have any duties or responsibilities, except those expressly set forth herein and in the other Note Documents to which the Notes Collateral Agent is a party, nor shall the Notes Collateral Agent have or be deemed to have any trust or other fiduciary relationship with the Trustee, any Holder or the Issuer or a Guarantor, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this

Indenture or the Note Documents or otherwise exist against the Notes Collateral Agent. Without limiting the generality of the foregoing sentence, the use of the term "agent" in this Indenture with reference to the Notes Collateral 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.

(b) The Notes Collateral Agent may perform any of its duties under this Indenture or the Note Documents by or through receivers, agents, employees, attorneys-in-fact or with respect to any specified Person, such Person's Affiliates, and the respective officers, directors, employees, agents, advisors and attorneys-in-fact of such Person and its Affiliates (a "Related Person") and shall be entitled to advice of counsel concerning all matters pertaining to such duties, and shall be entitled to act upon, and shall be fully protected in taking action in reliance upon any advice or opinion given by legal counsel. The Notes Collateral Agent shall not be responsible for the negligence or willful misconduct of any receiver, agent, employee, attorney-in-fact or Related Person that it selects as long as such selection was made in good faith.

(c) Neither the Notes Collateral Agent nor any of its respective Related Persons shall (i) be liable for any action taken or omitted to be taken by any of them under or in connection with this Indenture or the transactions contemplated hereby (except for its own bad faith, gross negligence or willful misconduct as finally adjudicated by a court of competent jurisdiction) or under or in connection with any Security Document or the transactions contemplated thereby (except for its own bad faith, gross negligence or willful misconduct as finally adjudicated by a court of competent jurisdiction), or (ii) be responsible in any manner to any of the Trustee or any Holder for any recital, statement, representation, warranty, covenant or agreement made by the Issuer or any Guarantor or Affiliate thereof, or any Officer or Related Person thereof, contained in this Indenture, or any other Note Documents, or in any certificate, report, statement or other document referred to or provided for in, or received by the Notes Collateral Agent under or in connection with, this Indenture or the Note Documents, or the validity, effectiveness, genuineness, enforceability or sufficiency of this Indenture or the Note Documents, or for any failure of the Issuer or any Guarantor to perform its obligations hereunder or thereunder. Neither the Notes Collateral Agent nor any of its respective Related Persons shall be under any obligation to the Trustee or any Holder to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Indenture or the Note Documents or to inspect the properties, books, or records of the Issuer or a Guarantor or any Affiliates thereof.

(d) The Notes Collateral Agent shall be entitled (in the absence of bad faith) to rely, and shall be fully protected in relying, upon any writing, resolution, notice, consent, certificate, affidavit, letter, telegram, facsimile, certification, telephone message, statement, or other communication, document or conversation (including those by telephone or e-mail) believed by it to be genuine and correct and to have been signed, sent, or made by the proper Person or Persons, and upon advice and statements of legal counsel (including, without limitation, counsel to the Issuer or any Guarantor), independent accountants and/or other experts and advisors selected by the Notes Collateral Agent. The Notes Collateral Agent shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, or other paper or document. Unless otherwise expressly required hereunder or pursuant to any Security Document, the Notes Collateral Agent shall be fully justified in failing or refusing to take any action under this Indenture or the Notes Security Documents, and shall incur no liability by reason of such failure or refusal to take action, unless it shall first receive such written advice or concurrence of the Trustee or the Holders of a majority in aggregate principal amount of the Notes as it determines and, if it so requests, it shall first be indemnified to its satisfaction by the Holders against any and all liability, fees and expense which may be incurred by it by reason of taking or continuing to take any such action. The Notes Collateral Agent shall in all cases be fully protected from claims by any Holders in acting, or in refraining from acting, under this Indenture or the Note Documents in accordance with a request, direction, instruction or consent of the Trustee or the Holders of a majority in aggregate principal amount of the then outstanding Notes and such request and any action taken or failure to act pursuant thereto shall be binding upon all of the Holders.

(e) The Notes Collateral Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default, unless a Responsible Officer of the Notes Collateral Agent shall have received written notice from the Trustee or the Issuer referring to this Indenture, describing such Default or Event of Default and stating that such notice is a "notice of default." The Notes Collateral Agent shall take such action with respect to such Default or Event of Default as may be requested by the Trustee in accordance with Article VI or the Holders of a majority in aggregate principal amount of the Notes (subject to this Section 12.02).

(f) The Notes Collateral Agent may resign at any time by notice to the Trustee and the Issuer, such resignation to be effective upon the acceptance of a successor agent to its appointment as Notes Collateral Agent. If the Notes Collateral Agent resigns under this Indenture, the Issuer shall appoint a successor collateral agent. If no successor collateral agent is appointed prior to the intended effective date of the resignation of the Notes Collateral Agent (as stated in the notice of resignation), the Notes Collateral Agent or Holders of at least a majority in principal amount of all the outstanding Notes issued under this Indenture may appoint, after consulting with the Trustee, subject to the consent of the Issuer (which shall not be unreasonably withheld and which shall not be required during a continuing Event of Default), a successor collateral agent. If no successor collateral agent is appointed and consented to by the Issuer pursuant to the preceding sentence within thirty (30) days after the intended effective date of resignation (as stated in the notice of resignation) the Notes Collateral Agent shall be entitled to petition a court of competent jurisdiction to appoint a successor at the sole expense of the Issuer. Upon the acceptance of its appointment as successor collateral agent hereunder, such successor collateral agent shall succeed to all the rights, powers and duties of the retiring Notes Collateral Agent, and the term "Notes Collateral Agent" shall mean such successor collateral agent, and the retiring Notes Collateral Agent's appointment, powers and duties as the Notes Collateral Agent shall be terminated. After the retiring Notes Collateral Agent's resignation hereunder, the Notes Collateral Agent shall be fully and immediately discharged of all responsibilities under this Indenture and the Note Documents to which it is party, provided that the provisions of this Section 12.02 (and Section 7.07) shall continue to inure to its benefit and the retiring Notes Collateral Agent shall not by reason of such resignation be deemed to be released from liability as to any actions taken or omitted to be taken by it while it was the Notes Collateral Agent under this Indenture.

(g) The Trustee and the Notes Collateral Agent shall be authorized to appoint co-Notes Collateral Agents or sub-agents or other additional Notes Collateral Agents as necessary in its sole discretion or in accordance with applicable law and any such appointment shall be reflected in documentation (which the Issuer, the Trustee and the Notes Collateral Agent are hereby authorized to enter into). Except as otherwise explicitly provided herein or in the Note Documents, neither the Notes Collateral Agent nor any of its respective officers, directors, employees or agents or other Related Persons shall be liable for failure to demand, collect or realize upon any of the Collateral or for any delay in doing so or shall be under any obligation to sell or otherwise dispose of any Collateral upon the request of any other Person or to take any other action whatsoever with regard to the Collateral or any part thereof. The Notes Collateral Agent shall be accountable only for amounts that it actually receives as a result of the exercise of such powers, and neither the Notes Collateral Agent nor any of its respective officers, directors, employees or agents shall be responsible for any act or failure to act hereunder, except for its own gross negligence or willful misconduct as finally adjudicated by a court of competent jurisdiction.

(h) The Notes Collateral Agent is authorized and directed to (i) enter into the Note Documents to which it is party, whether executed on or after the Issue Date (including the Note Documents to be executed on the Spin-Off Date pursuant to Section 3.14), (ii) enter into the First Lien Pari Passu Intercreditor Agreement (and any joinders, supplements or amendments thereto contemplated hereby), (iii) make the representations of the Holders set forth in the Note Documents, (iv) bind the Holders on the terms as set forth in the Note Documents and (v) perform and observe its obligations under the Note Documents. Any execution of a Notes Security Document by the Notes Collateral Agent after the Spin-Off Date shall be at the direction and expense of the Issuer, upon delivery to the Notes Collateral Agent of an Officers' Certificate and an Opinion of Counsel stating that the execution is authorized or permitted pursuant to this Indenture and applicable Note Documents.

(i) If applicable, the Notes Collateral Agent is each Holder's agent for the purpose of perfecting the Holders' security interest in assets which, in accordance with Article 9 of the UCC, can be perfected only by possession. Should the Trustee obtain possession of any such Collateral, upon written request from the Issuer, the Trustee shall notify the Notes Collateral Agent thereof and promptly shall deliver such Collateral to the Notes Collateral Agent.

(j) The Notes Collateral Agent shall not have any obligation whatsoever to the Trustee or any of the Holders to assure that the Collateral exists or is owned by the Issuer or any Guarantor or is cared for, protected, or insured or has been encumbered, or that the Notes Collateral Agent's Liens have been properly or sufficiently or lawfully created, perfected, protected, maintained or enforced or are entitled to any particular priority, or to determine whether all or such of the Issuer's or Guarantors' property constituting collateral intended to be subject to the Lien and security interest of the Note Documents has been properly and completely listed or delivered, as the case may be, or the genuineness, validity, marketability or sufficiency thereof or title thereto, or to exercise at all or in any particular manner or under any duty of care, disclosure, or fidelity, or to continue exercising, any of the rights, authorities, and powers granted or available to the Notes Collateral Agent pursuant to this Indenture or any Notes Security Document other than pursuant to the instructions of the Trustee or the Holders of a majority in aggregate principal amount of the Notes, it being understood and agreed that in respect of the Collateral, or any act, omission, or event related thereto, the Notes Collateral Agent shall not have any other duty or liability whatsoever to the Trustee or any Holder or any other Notes Collateral Agent as to any of the foregoing.

(k) No provision of this Indenture or any Notes Security Document shall require the Notes Collateral Agent to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder or thereunder or in the exercise of any of its rights or powers unless, if requested, it shall have first received security or indemnity reasonably satisfactory to it against potential costs and liabilities incurred by the Notes Collateral Agent relating thereto, if it shall have reasonable grounds for believing that repayment of such funds or reasonable indemnity against such risk of liability is not reasonably assured to it. The Notes Collateral Agent (i) shall not be liable for any action taken or omitted to be taken by it in connection with this Indenture, the First Lien Pari Passu Intercreditor Agreement and the Notes Security Documents or instrument referred to herein or therein, except to the extent that any of the foregoing are found by a final, non-appealable judgment of a court of competent jurisdiction to have resulted from its own bad faith, gross negligence or willful misconduct, (ii) shall not be liable for interest on any money received by it except as the Notes Collateral Agent may agree in writing with the Issuer (and money held in trust by the Notes Collateral Agent (a) shall be held uninvested without liability for interest, unless otherwise agreed in writing, (b) shall be held in a non-interest bearing trust account and (c) need not be segregated from other funds except to the extent required by law) and (iii) may consult with counsel of its selection and the advice or opinion of such counsel as to matters of law shall be full and complete authorization and protection from liability in respect of any action taken, omitted or suffered by it in good faith and in accordance with the advice or opinion of such counsel. The grant of permissive rights or powers to the Notes Collateral Agent shall not be construed to impose duties to act.

(l) The Notes Collateral Agent shall not be responsible or liable for any failure or delay in the performance of its obligations under this Indenture arising out of or caused, directly or indirectly, by circumstances beyond its control, including, without limitation, acts of God; earthquakes; fire; flood; terrorism; wars and other military disturbances; sabotage; epidemics; riots; interruptions; loss or malfunctions of utilities, computer (hardware or software) or communication services; accidents; labor disputes; acts of civil or military authority and governmental action.

(m) The Notes Collateral Agent does not assume any responsibility for any failure or delay in performance or any breach by the Issuer or any Guarantor under this Indenture and the Note Documents. The Notes Collateral Agent shall not be responsible to the Holders or any other Person for any recitals, statements, information, representations or warranties contained in any Note Documents or in any certificate, report, statement, or other document referred to or provided for in, or received by the Notes Collateral Agent under or in connection with, this Indenture or any Notes Security Document; the execution, validity, genuineness, effectiveness or enforceability of the First Lien Pari Passu Intercreditor Agreement and any Note Documents of any other party thereto; the genuineness, enforceability, collectability, value, sufficiency, location or existence of any Collateral, or the validity, effectiveness, enforceability, sufficiency, extent, perfection or priority of any Lien therein; the validity, enforceability or collectability of any Obligations; the assets, liabilities, financial condition, results of operations, business, creditworthiness or legal status of any obligor; or for any failure of any obligor to perform its Obligations under this Indenture and the Note Documents. The Notes Collateral Agent shall not have any obligation to any Holder or any other Person to ascertain or inquire into the existence of any Default or Event of Default, the observance or performance by any obligor of any terms of this Indenture, the Credit Agreement or the Note Documents, or the satisfaction of any conditions precedent contained in this Indenture or any Note Documents. The Notes Collateral Agent shall not be required to initiate or conduct any litigation or collection or other proceeding under this Indenture and the Note Documents unless expressly set forth hereunder or thereunder. Without limiting its obligations as expressly set forth herein, the Notes Collateral Agent shall have the right at any time to seek instructions from the Holders with respect to the administration of the Note Documents.

(n) Subject to the provisions of the applicable Note Documents, each Holder, by acceptance of the Notes, agrees that the Notes Collateral Agent shall execute and deliver the First Lien Pari Passu Intercreditor Agreement and the Note Documents to which it is a party and all agreements, documents and instruments incidental thereto (including any releases permitted hereunder), and act in accordance with the terms thereof. For the avoidance of doubt, the Notes Collateral Agent shall not be required to exercise discretion under this Indenture or the Note Documents and shall not be required to make or give any determination, consent, approval, request or direction without the written direction of the Holders of a majority in aggregate principal amount of the then outstanding Notes or the Trustee, as applicable, except as otherwise expressly provided for herein or in any other Notes Document. For purposes of clarity, phrases such as "satisfactory to the Notes Collateral Agent," "approved by the Notes Collateral Agent," "acceptable to the Notes Collateral Agent," "in the Notes Collateral Agent's discretion," "selected by the Notes Collateral Agent," "requested by the Notes Collateral Agent" and phrases of similar import authorize and permit the Notes Collateral Agent to approve, disapprove, determine, act or decline to act in its discretion.

(o) After the occurrence of an Event of Default, the Trustee may (at the direction of a majority of Holders) direct the Notes Collateral Agent in connection with any action required or permitted by this Indenture or the Note Documents.

(p) The Notes Collateral Agent is authorized to receive any funds for the benefit of itself, the Trustee and the Holders distributed under the Note Documents and to the extent not prohibited under the First Lien Pari Passu Intercreditor Agreement, for turnover to the Trustee to make further distributions of such funds to itself, the Trustee and the Holders in accordance with this Indenture.

(q) Subject to the terms of the Note Documents, in each case that the Notes Collateral Agent may or is required hereunder or under any other Notes Document to take any action (an "Action"), including without limitation to make any determination, to give consents, to exercise rights, powers or remedies, to release or sell Collateral or otherwise to act hereunder or under any other

Notes Document, the Notes Collateral Agent may seek direction from the Holders of a majority in aggregate principal amount of the then outstanding Notes. The Notes Collateral Agent shall not be liable with respect to any Action taken or omitted to be taken by it in accordance with the direction from the Holders of a majority in aggregate principal amount of the then outstanding Notes. Subject to the terms of the Note Documents, if the Notes Collateral Agent shall request direction from the Trustee or the Holders of a majority in aggregate principal amount of the then outstanding Notes with respect to any Action, the Notes Collateral Agent shall be entitled to refrain from such Action unless and until the Notes Collateral Agent shall have received direction from the Trustee or the Holders of a majority in aggregate principal amount of the then outstanding Notes, and the Notes Collateral Agent shall not incur liability to any Person by reason of so refraining.

(r) Notwithstanding anything to the contrary in this Indenture or any other Notes Document, in no event shall the Notes Collateral Agent or the Trustee be responsible for, or have any duty or obligation with respect to, the preparation, recording, filing, registering, perfection, protection or maintenance of the security interests or Liens intended to be created by this Indenture or the other Note Documents (including without limitation the filing or continuation of any UCC financing or continuation statements or similar documents or instruments (which shall be filed by the Issuer)), nor shall the Notes Collateral Agent or the Trustee be responsible for, and neither the Notes Collateral Agent nor the Trustee makes any representation regarding, the validity, effectiveness or priority of any of the Note Documents or the security interests or Liens intended to be created thereby.

(s) The Issuer shall pay compensation to, reimburse expenses of and indemnify the Notes Collateral Agent in accordance with Section 7.07. Accordingly, the reference to the "Trustee" in Section 7.07 and Section 7.08 shall be deemed to include the reference to the Notes Collateral Agent.

(t) Anything in this Indenture or any Security Document notwithstanding, in no event shall the Notes Collateral Agent be responsible or liable for special, indirect, incidental, punitive, or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Notes Collateral Agent has been advised of the likelihood of such loss or damage and regardless of the form of action.

SECTION 12.03 Authorization of Actions to Be Taken.

(a) Subject to the provisions of the First Lien Pari Passu Intercreditor Agreement and the Notes Security Documents, the Trustee and the Notes Collateral Agent are authorized and empowered to receive for the benefit of the Holders of Notes any funds collected or distributed under the Notes Security Documents to which the Notes Collateral Agent or Trustee is a party and to make further distributions of such funds to the Holders of Notes according to the provisions of this Indenture.

(b) Subject to the provisions of Article VI, Section 7.01 and Section 7.02 hereof, the First Lien Pari Passu Intercreditor Agreement and the Notes Security Documents, upon the occurrence and continuance of an Event of Default, the Trustee may, at the direction of Holders of at least a majority in principal amount of all the outstanding Notes issued under this Indenture, direct, on behalf of the Holders, the Notes Collateral Agent to take all actions it deems necessary or appropriate in order to:

(1) foreclose upon or otherwise enforce any or all of the Liens securing the Notes Obligations;

(2) enforce any of the terms of the Notes Security Documents and any Intercreditor Agreement to which the Notes Collateral Agent or Trustee is a party; or

(3) collect and receive payment of any and all Notes Obligations.

Subject to the First Lien Pari Passu Intercreditor Agreement, the Trustee is authorized and empowered to institute and maintain, or direct the Notes Collateral Agent to institute and maintain, such suits and proceedings as it may deem expedient to prevent any impairment of Collateral by any acts that may be unlawful or in violation of the Notes Security Documents to which the Notes Collateral Agent or Trustee is a party or this Indenture, and such suits and proceedings as the Trustee or the Notes Collateral Agent may deem expedient to preserve or protect its interests and the interests of the Holders of Notes in the Collateral.

SECTION 12.04 Release of Collateral and Subordination of Liens on the Collateral.

(a) The Issuer and the Subsidiary Guarantors shall be entitled to the release of property and other assets constituting Collateral from the Liens securing the Notes and the Notes Obligations (and such Liens shall be automatically released) under any one or more of the following circumstances:

(1) if the property subject to such Lien is sold, disposed of or distributed as part of or in connection with any transaction or series of related transactions not prohibited under this Indenture or any Notes Security Document, in each case to a Person that is not the Issuer or a Guarantor (including pursuant to any Receivables Facility permitted under this Indenture);

(2) if the property subject to such Lien constitutes or becomes Excluded Property as a result of an occurrence not prohibited under this Indenture;

(3) if the property subject to such Lien is owned by a Subsidiary Guarantor, upon release of such Subsidiary Guarantor from its obligations under this Indenture or any Notes Security Document, as applicable, as described under Article X;

(4) in accordance with the First Lien Pari Passu Intercreditor Agreement; and

(5) pursuant to an amendment or waiver in accordance with Article IX.

In addition, the Liens on the Collateral securing the Notes and the Guarantees shall be automatically released upon (i) payment in full of the principal of, together with accrued and unpaid interest on, the Notes and all other Obligations under this Indenture, the Guarantees and the Notes Security Documents that are due and payable at or prior to the time such principal, together with accrued and unpaid interest, is paid or (ii) a legal defeasance or covenant defeasance as in accordance with Article VIII or a discharge of this Indenture in accordance with Article XI. Without limiting the generality of the foregoing, in the event (i) that the Issuer delivers to the Trustee an Officer's Certificate and Opinion of Counsel certifying that the events or circumstances described in clause (i) or (ii) of the immediately preceding sentence have occurred, the Trustee shall deliver to the Issuer and the Notes Collateral Agent a notice stating that the Trustee, on behalf of the Holders, without recourse or warranty, disclaims and gives up any and all rights it has in or to the Collateral, and any rights it has under the Notes Security Documents, and upon receipt by the Notes Collateral Agent of such notice, the Notes Collateral Agent shall be deemed not to hold a Lien in the Collateral on behalf of the Trustee and shall do or cause to be done all acts reasonably necessary at the request and expense of the Issuer to release such Lien as soon as is reasonably practicable.

(b) The Liens on the Collateral securing the Notes and Guarantees will be automatically released and/or subordinated, as applicable, to the holder of any Permitted Lien on such property that is permitted by clauses (1), (5), (6) (only with regard to Section 3.02(b)), (8), (9), (11), (12), (14), (16), (17) (other than with respect to self-insurance arrangements), (18) (solely to the extent constituting Excluded Property), (20), (21), (22), (23) (solely to the extent relating to a lien of the type allowed pursuant to clauses (8), (9), (11) (solely with respect to cash deposits) of the definition of "Permitted Liens"), (25) (solely to the extent relating to a lien of the type allowed pursuant to clause (6) of the definition of "Permitted Liens" and securing obligations under Indebtedness of the type allowed pursuant to Section 3.02(b)), (26) (solely to the extent the Lien of the Notes Collateral Agent on such property is not, pursuant to such agreements, permitted to be senior to or *pari passu* with such Liens), (27), (29) (solely with respect to cash deposits), (33), (34), (39) (only for so long as required to be secured for such letter of intent or investment) and (45) of the definition of "Permitted Liens."

(c) With respect to any release or subordination of Collateral pursuant to this Section 12.04, upon receipt of an Officer's Certificate and an Opinion of Counsel stating that all conditions precedent under this Indenture and the Notes Security Documents, as applicable, to such release or subordination have been met and that it is permitted for the Trustee and/or a Notes Collateral Agent to execute and deliver the documents requested by the Issuer in connection with such release or subordination, and any necessary or proper instruments of termination, satisfaction, discharge or release prepared by the Issuer, the Trustee shall, or shall cause the Notes Collateral Agent to, execute, deliver or acknowledge (at the Issuer's expense) such instruments or releases (whether electronically or in writing) to evidence, and shall do or cause to be done all other acts reasonably necessary to effect or evidence, as applicable, in each case as soon as reasonably practicable, the release and discharge or subordination of any Collateral permitted to be released or subordinated pursuant to this Indenture or the Notes Security Documents. Neither the Trustee nor any Notes Collateral Agent shall be liable for any such release or subordination undertaken in reliance upon any such Officer's Certificate or Opinion of Counsel, and notwithstanding any term hereof or in any Notes Security Document to the contrary, but without limiting any automatic release provided hereunder or under any Notes Security Document, the Trustee and each Notes Collateral Agent shall not be under any obligation to release or subordinate any such Lien and security interest, or execute and deliver any such instrument of release, satisfaction, discharge or termination, unless and until it receives such Officer's Certificate and Opinion of Counsel.

SECTION 12.05 Powers Exercisable by Receiver or Trustee. In case the Collateral shall be in the possession of a receiver or trustee, lawfully appointed, the powers conferred in this Article XII upon the Issuer or the Guarantors with respect to the release, sale or other disposition of such property may be exercised by such receiver or trustee, and an instrument signed by such receiver or trustee shall be deemed the equivalent of any similar instrument of the Issuer or the Guarantors or of any officer or officers thereof required by the provisions of this Article XII; and if the Trustee, Notes Collateral Agent or a nominee of the Trustee or Notes Collateral Agent shall be in the possession of the Collateral under any provision of this Indenture, then such powers may be exercised by the Trustee, Notes Collateral Agent or a nominee of the Trustee or Notes Collateral Agent.

SECTION 12.06 [Reserved].

SECTION 12.07 Junior Lien Intercreditor Agreement. In the event that the Issuer or a Guarantor incurs Junior Lien Priority Indebtedness that is not prohibited by this Indenture, the Notes Collateral Agent (and, if applicable, the Trustee) will enter into a senior priority/junior priority intercreditor agreement with (together with other relevant Persons) any collateral agent and/or other authorized representative of any Junior Lien Priority Indebtedness, which intercreditor agreement shall provide for the subordination of Liens on such Junior Lien Priority Indebtedness to the Liens securing the Notes and other intercreditor provisions with respect to such Junior Lien Priority Indebtedness, and such intercreditor agreement shall be customary in the good faith determination of the Issuer (for intercreditor agreements providing junior priority liens) as certified to the Trustee in writing by the Issuer, and if the Credit Agreement is then outstanding, shall be in a form approved by the Credit Agreement Collateral Agent (each, a "Junior Lien Intercreditor Agreement"). The Notes Collateral Agent (and, if applicable, the Trustee) shall sign any such Junior Lien Intercreditor Agreement upon delivery of an Officer's Certificate of the Issuer; it being understood that the First Lien/Second Lien Intercreditor Agreement (as defined in the Credit Agreement) constitutes a customary Junior Lien Intercreditor Agreement.

ARTICLE XIII

MISCELLANEOUS

SECTION 13.01 Notices. Any notice, request, direction, consent or communication made pursuant to the provisions of this Indenture or the Notes shall be in writing and delivered in person, sent by facsimile, sent by electronic mail in pdf format, delivered by commercial courier service or mailed by first-class mail, postage prepaid, addressed as follows:

if to the Issuer or to any Guarantor:

Embecta Corp.
1 Becton Drive
Franklin Lakes, NJ 07417
Attention: Corporate Secretary

if to the Trustee, Notes Collateral Agent, Paying Agent or Registrar, at its corporate trust office, which corporate trust office for purposes of this Indenture is at the date hereof located at:

U.S. Bank Trust Company, National Association
333 Thornall St.
Edison, NJ 08837
Attention: Mark DiGiacomo

The Issuer, the Trustee, the Notes Collateral Agent, the Paying Agent and the Registrar by written notice to the others may designate additional or different addresses for subsequent notices or communications.

Any notice or communication shall be deemed to have been given or made as of the date so delivered if personally delivered or if delivered electronically, in pdf format; when receipt is acknowledged, if telecopied; and five (5) calendar days after mailing if sent by registered or certified mail, postage prepaid (except that a notice of change of address shall not be deemed to have been given until actually received by the addressee).

Any notice or communication sent to a Holder shall be electronically delivered or mailed to the Holder at the Holder's address as it appears in the Notes Register and shall be sufficiently given if so sent or mailed within the time prescribed.

Failure to mail or deliver electronically a notice or communication to a Holder or any defect in it shall not affect its sufficiency with respect to other Holders. If a notice or communication is sent in the manner provided above, it is duly given, whether or not the addressee receives it.

Notwithstanding any other provision of this Indenture or any Note, where this Indenture or any Note provides for notice of any event (including any notice of redemption or purchase) to a Holder of a Global Note (whether by mail or otherwise), such notice shall be sufficiently given if given to DTC (or its designee) pursuant to the standing instructions from DTC or its designee.

SECTION 13.02 Certificate and Opinion as to Conditions Precedent.

Upon any request or application by the Issuer or any of the Guarantors to the Trustee to take or refrain from taking any action under this Indenture, the Issuer or such Guarantor, as the case may be, shall furnish to the Trustee (except, as to paragraph (2) below, in the case of the initial issuance of the Notes on the date hereof):

(1) an Officer's Certificate in form satisfactory to the Trustee (which shall include the statements set forth in Section 13.03 hereof) stating that, in the opinion of the signers, all conditions precedent, if any, provided for in this Indenture relating to the proposed action have been satisfied; and

(2) an Opinion of Counsel in form satisfactory to the Trustee (which shall include the statements set forth in Section 13.03 hereof) stating that, in the opinion of such counsel, all such conditions precedent have been satisfied and all covenants have been complied with.

SECTION 13.03 Statements Required in Certificate or Opinion. Each certificate or opinion with respect to compliance with a covenant or condition provided for in this Indenture shall include:

(1) a statement that the individual making such certificate or opinion has read such covenant or condition;

(2) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;

(3) a statement that, in the opinion of such individual, such individual has made such examination or investigation as is necessary to enable such individual to express an informed opinion as to whether or not such covenant or condition has been complied with; and

(4) a statement as to whether or not, in the opinion of such individual, such covenant or condition has been complied with.

In giving such Opinion of Counsel, counsel may rely as to factual matters on an Officer's Certificate or on certificates of public officials.

SECTION 13.04 When Notes Disregarded. In determining whether the Holders of the required aggregate principal amount of Notes have concurred in any direction, waiver or consent, Notes owned by the Issuer, any Guarantor or any Affiliate of them shall be disregarded and deemed not to be outstanding, except that, for the purpose of determining whether the Trustee shall be protected in relying on any such direction, waiver or consent, only Notes which a Responsible Officer of the Trustee actually knows are so owned shall be so disregarded. Also, subject to the foregoing, only Notes outstanding at the time shall be considered in any such determination.

SECTION 13.05 Rules by Trustee, Notes Collateral Agent, Paying Agent and Registrar. The Trustee and Notes Collateral Agent may make reasonable rules for action by, or at meetings of, Holders. The Registrar and the Paying Agent may make reasonable rules for their functions.

SECTION 13.06 Legal Holidays. A "Legal Holiday" is a Saturday, a Sunday or other day on which commercial banking institutions are authorized or required to be closed in New York, New York or the jurisdiction of the place of payment. If a payment date or a Redemption Date is a Legal Holiday, payment shall be made on the next succeeding day that is not a Legal Holiday, and no interest shall accrue on such payment for the intervening period. If a regular record date is a Legal Holiday, the record date shall not be affected.

SECTION 13.07 Governing Law. THIS INDENTURE, THE NOTES, THE BD GUARANTEE AND THE NOTE GUARANTEES AND THE RIGHTS OF THE PARTIES HEREUNDER AND THEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

SECTION 13.08 Jurisdiction. The parties hereto agree that any suit, action or proceeding brought by any Holder or the Trustee arising out of or based upon this Indenture, the Guarantee or the Notes may be instituted in any state or Federal court in the Borough of Manhattan, New York, New York, and any appellate court from any thereof, and each of them irrevocably submits to the exclusive jurisdiction of such courts in any suit, action or proceeding. The parties hereto irrevocably waive, to the fullest extent permitted by law, any objection to any suit, action, or proceeding that may be brought in connection with this Indenture, the Guarantee or the Notes, including such actions, suits or proceedings relating to securities laws of the United States of America or any state thereof, in such courts whether on the grounds of venue, residence or domicile or on the ground that any such suit, action or proceeding has been brought in an inconvenient forum or that such courts do not have jurisdiction over such party. The parties hereto agree that final judgment in any such suit, action or proceeding brought in such court shall be conclusive and binding upon the Issuer or the Guarantors, as the case may be, and may be enforced in any court to the jurisdiction of which the Issuer or the Guarantors, as the case may be, are subject by a suit upon such judgment.

SECTION 13.09 Waivers of Jury Trial. **EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES OR THE GUARANTEES AND FOR ANY COUNTERCLAIM THEREIN.**

SECTION 13.10 USA PATRIOT Act. The parties hereto acknowledge that in accordance with Section 326 of the USA PATRIOT Act, the Trustee, like all financial institutions and in order to help fight the funding of terrorism and money laundering, is required to obtain, verify, and record information that identifies each person or legal entity that establishes a relationship or opens an account. The parties hereto agree that they will provide the Trustee with such information as it may request in order to satisfy the requirements of the USA PATRIOT Act.

SECTION 13.11 No Recourse against Others. No past, present or future director, officer, employee, incorporator, or stockholder of the Issuer or any of its Subsidiaries or Affiliates, as such (other than the Issuer and the Guarantors), shall have any liability for any obligations of the Issuer or the Guarantors under the Note Documents or for any claim based on, in respect of, or by reason of such obligations or their creation. Each Holder by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes. Such waiver may not be effective to waive liabilities under the U.S. federal securities laws and it is the view of the SEC that such a waiver is against public policy.

SECTION 13.12 Successors. All agreements of the Issuer and each Guarantor in this Indenture and the Notes shall bind their respective successors. All agreements of the Trustee, the Notes Collateral Agent, the Paying Agent and the Registrar, as applicable, in this Indenture shall bind its successors.

SECTION 13.13 Multiple Originals. The parties may sign any number of copies of this Indenture. Each signed copy shall be an original, but all of them together represent the same agreement. The exchange of copies of this Indenture and of signature pages by facsimile, PDF or other electronic transmission shall constitute effective execution and delivery of this Indenture as to the parties hereto and may be used in lieu of the original Indenture for all purposes. Signatures of the parties hereto transmitted by facsimile, PDF or other electronic format shall be deemed to be their original signatures for all purposes.

SECTION 13.14 Electronic Transmission; Electronic Signatures. Neither the Trustee nor the Notes Collateral Agent shall have any duty to confirm that the person sending any notice, instruction or other communication (a "Notice") by electronic transmission (including by e-mail, facsimile transmission, web portal or other electronic methods) is, in fact, a person authorized to do so. Electronic signatures believed by the Trustee and Notes Collateral Agent to comply with the ESIGN Act of 2000 or other applicable law (including electronic images of handwritten signatures and digital signatures provided by DocuSign, Orbit, Adobe Sign or any other digital signature provider acceptable to the Trustee and Notes Collateral Agent) shall be deemed original signatures for all purposes. Each other party assumes all risks arising out of the use of electronic signatures and electronic methods to send Notices to the Trustee and the Notes Collateral Agent, including without limitation the risk of the Trustee or Notes Collateral Agent acting on an unauthorized Notice, and the risk of interception or misuse by third parties. Notwithstanding the foregoing, each of the Trustee and the Notes Collateral Agent may in any instance and in its sole discretion require that an original document bearing a manual signature be delivered to it in lieu of, or in addition to, any such electronic Notice.

SECTION 13.15 Table of Contents; Headings. The table of contents, cross-reference table and headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not intended to be considered a part hereof and shall not modify or restrict any of the terms or provisions hereof.

SECTION 13.16 Force Majeure. In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, epidemics, pandemics, civil or military disturbances, nuclear or natural catastrophes or acts of God, interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services, or the unavailability of the Federal Reserve Bank wire or telex or other wire or communication facility, it being understood that the Trustee shall use reasonable best efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

SECTION 13.17 Severability. In case any provision in this Indenture or in the Notes shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

SECTION 13.18 Intercreditor Agreement.

(a) The terms of this Indenture are subject to the terms of the First Lien Pari Passu Intercreditor Agreement.

(b) If the Issuer or any Guarantor (i) incurs any obligations in respect of First Lien Obligations at any time when no First Lien Pari Passu Intercreditor Agreement is in effect or at any time when Indebtedness constituting First Lien Obligations entitled to the benefit of an existing First Lien Pari Passu Intercreditor Agreement is concurrently retired, or incurs any other obligations permitted hereunder and required to be subject to an intercreditor agreement, and (ii) delivers to the Notes Collateral Agent an Officer's Certificate so stating and requesting the Notes Collateral Agent to enter into an intercreditor agreement (on substantially the same terms as the First Lien Pari Passu Intercreditor Agreement) in favor of a designated agent or representative for the holders of the First Lien Obligations so incurred, the Notes Collateral Agent and the Trustee (as applicable) shall (and are hereby authorized and directed to) enter into such intercreditor agreement (at the sole expense and cost of the Issuer, including fees (including legal fees) and expenses of the Notes Collateral Agent), bind the Holders on the terms set forth therein and perform and observe its obligations thereunder.

SECTION 13.19 Waiver of Immunities. To the extent that the Issuer or any Guarantor or any of its properties, assets or revenues may have or may hereafter become entitled to, or have attributed to them, any right of immunity, on the grounds of sovereignty, from any legal action, suit or proceeding, from set-off or counterclaim, from the jurisdiction of any court, from service of process, from attachment upon or prior to judgment, or from attachment in aid of execution of judgment, or from execution of judgment, or other legal process or proceeding for the giving of any relief or for the enforcement of any judgment, in any jurisdiction in which proceedings may at any time be commenced, with respect to their obligations, liabilities or any other matter under or arising out of or in connection with this Indenture, the Notes or the Note Guarantees, the Issuer and each Guarantor hereby irrevocably and unconditionally, to the extent permitted by applicable law, waives and agrees not to plead or claim any such immunity and consents to such relief and enforcement.

[Signature on followings pages]

IN WITNESS WHEREOF, the parties have caused this Indenture to be duly executed all as of the date and year first written above.

Embecta Corp.

By: /s/ *Jacob Elguicze*
Name: Jacob Elguicze
Title: Chief Financial Officer

[Signature Page to Indenture]

U.S. Bank Trust Company, National Association,
as Trustee and as Notes Collateral Agent

By: */s/ Mark DiGiacomo*
Name: Mark DiGiacomo
Title: Vice President

[Signature Page to Indenture]

EXHIBIT A

[FORM OF FACE OF GLOBAL RESTRICTED NOTE]

[Applicable Restricted Notes Legend]
[Depository Legend, if applicable]
[OID Legend, if applicable]

No. [___]

Principal Amount $[_____] [as revised by the Schedule of Increases and Decreases in Global Note attached hereto][1]
CUSIP NO. _____

ISIN NO. _____

Embecta Corp.

6.750% Senior Secured Notes due 2030

Embecta Corp., a Delaware corporation (the "Issuer"), promises to pay to [Cede & Co.],[2] or its registered assigns, the principal sum of _____ U.S. dollars, [as revised by the Schedule of Increases and Decreases in Global Note attached hereto],[3] on February 15, 2030.

Interest Payment Dates: February 15 and August 15, commencing on August 15, 2022

Record Dates: February 1 and August 1

Additional provisions of this Note are set forth on the other side of this Note.

1 Insert in Global Notes only.
2 Insert in Global Notes only.
3 Insert in Global Notes only.

IN WITNESS WHEREOF, the Issuer has caused this instrument to be duly executed.

Embecta Corp.

By: _____

Name:
Title:

TRUSTEE CERTIFICATE OF AUTHENTICATION

This Note is one of the 6.750% Senior Secured Notes due 2030 referred to in the within-mentioned Indenture.

U.S. Bank Trust Company, National Association,
as Trustee

By: _____
Authorized Signatory

Dated: _____

[FORM OF REVERSE SIDE OF NOTE]
Embecta Corp.

6.750% Senior Secured Notes due 2030

Capitalized terms used herein and not defined herein have the meanings ascribed thereto in the Indenture.

1. Interest

The Issuer promises to pay interest on the principal amount of this Note at 6.750% per annum from March 31, 2022 (if any) until maturity. The Issuer will pay interest semi-annually in arrears every February 15 and August 15 of each year, or if any such day is not a Business Day, on the next succeeding Business Day (each, an "Interest Payment Date") to Holders of record on the immediately preceding February 1 and August 1 of each year, respectively. Interest on the Notes shall accrue from the most recent date to which interest has been paid or, if no interest has been paid, from the date of issuance to, but excluding, the relevant Interest Payment Date; *provided* that the first Interest Payment Date shall be August 15, 2022. The Issuer shall pay interest on overdue principal at the rate specified herein, and it shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest (without regard to any applicable grace period) at the same rate to the extent lawful. Interest on the Notes will be computed on the basis of a 360-day year comprised of twelve 30-day months (and therefore, for the avoidance of doubt, because the Notes will be issued on March 31, 2022, no interest will accrue on March 31, 2022, and the first day on which interest will accrue shall be April 1, 2022).

2. Method of Payment

By no later than 11:00 a.m. (New York City time) on the date on which any principal of, premium, if any, or interest, on any Note is due and payable, the Issuer shall deposit with the Paying Agent a sum sufficient in immediately available funds to pay such principal, premium, if any, and interest then due. Interest on any Note which is payable, and is timely paid or duly provided for, on any Interest Payment Date shall be paid to the Person in whose name such Note (or one or more Predecessor Notes) is registered at the close of business on the preceding February 1 and August 1 at the office or agency of the Issuer maintained for such purpose pursuant to Section 2.03 of the Indenture. The principal of, premium, if any, and interest on the Notes shall be payable at the office or agency of Paying Agent or Registrar designated by the Issuer maintained for such purpose (which shall initially be the office of the Trustee maintained for such purpose), or at such other office or agency of the Issuer as may be maintained for such purpose pursuant to Section 2.03 of the Indenture; *provided*, *however*, that, at the option of the Paying Agent, each payment of interest, if any, may be paid by (i) check mailed to addresses of the Persons entitled thereto as such addresses shall appear on the Notes Register or (ii) wire transfer to an account located in the United States maintained by the payee, subject to the third to the last sentence of this paragraph. Payments in respect of Notes represented by a Global Note (including principal, premium, if any, and interest) will be made by wire transfer of immediately available funds to the accounts specified by The Depository Trust Company or any successor depository. Payments in respect of Notes represented by Definitive Notes (including principal, premium, if any, and interest) held by a Holder of at least $1,000,000 aggregate principal amount of Notes represented by Definitive Notes will be made in accordance with the Notes Register, or by wire transfer to a Dollar account maintained by the payee with a bank in the United States if such Holder elects payment by wire transfer by giving written notice to the Trustee or the Paying Agent to such effect designating such account no later than 15 days immediately preceding the relevant due date for payment (or such other date as the Trustee or Paying Agent, as applicable, may accept in its discretion). If an Interest Payment Date or a Redemption Date is a Legal Holiday, payment shall be made on the next succeeding day that is not a Legal Holiday, and no interest shall accrue on such payment for the intervening period. If a regular record date is a Legal Holiday, the record date shall not be affected.

3. Paying Agent and Registrar

The Issuer initially appoints U.S. Bank Trust Company, National Association as trustee (the "Trustee") and as notes collateral agent (the "Notes Collateral Agent") as Registrar and Paying Agent for the Notes. The Issuer may change any Registrar or Paying Agent without prior notice to the Holders. The Issuer or any Guarantor may act as Paying Agent, Registrar or transfer agent.

4. Indenture

The Issuer issued the Notes under an Indenture, dated as of March 31, 2022, among the Issuer, the Guarantors party thereto from time to time, the Trustee and the Notes Collateral Agent (as it may be amended or supplemented from time to time in accordance with the terms thereof, the "Indenture"), to be supplemented by the Supplemental Indenture, dated as of the Spin-Off Date, among the Issuer, the Subsidiary Guarantors, the Trustee and the Notes Collateral Agent. The terms of the Notes include those stated in the Indenture. The Notes are subject to all terms and provisions of the Indenture, and Holders are referred to the Indenture for a statement of those terms. In the event of a conflict between the terms of the Notes and the terms of the Indenture, the terms of the Indenture shall control.

The Notes are senior obligations of the Issuer. The aggregate principal amount of Notes that may be authenticated and delivered under the Indenture is unlimited. This Note is one of the 6.750% Senior Secured Notes due 2030 referred to in the Indenture. The Notes include (i) $200,000,000 principal amount of the Issuer's 6.750% Senior Secured Notes due 2030 issued under the Indenture on March 31, 2022 (the "Initial Notes") and (ii) if and when issued, additional Notes that may be issued from time to time under the Indenture subsequent to March 31, 2022 (the "Additional Notes") as provided in Section 2.01(a) of the Indenture. The Initial Notes and the Additional Notes shall be considered collectively as a single class for all purposes of the Indenture, including with respect to redemptions and offers to purchase; *provided* that the Additional Notes will not be issued with the same CUSIP as the existing Notes if such Additional Notes are not fungible with the Initial Notes for U.S. federal income tax purposes or if the Issuer otherwise determines that any such Additional Notes should be differentiated from any other Notes. The Indenture imposes certain limitations on the incurrence of indebtedness, the making of restricted payments, the sale of assets, the incurrence of certain liens, the making of payments for consents, the entering into of agreements that restrict distribution from guarantors and the consummation of mergers and consolidations. The Indenture also imposes requirements with respect to the provision of financial information to the Trustee and the provision of guarantees of the Notes by certain subsidiaries.

The Initial Notes are being issued under the Indenture on the Issue Date by the Issuer to BD, pursuant to the Transaction Documents and the Intercompany Agreement, and immediately thereafter, BD shall become be the sole beneficial holder of the Initial Notes, and on the settlement date of the Exchange (which is expected to occur one Business Day after the Issue Date and immediately following the consummation of the Spin-Off on the Spin-Off Date), pursuant to the Exchange Agreement and the Offer Cooperation Agreement, BD intends to transfer beneficial ownership of the Initial Notes to Morgan Stanley in exchange for the BD Notes purchased by Morgan Stanley in the tender offers that were commenced by it on March 16, 2022, on the terms and subject to the conditions set forth in the Offer to Purchase, and immediately following the consummation of the Exchange, (x) BD intends to deliver the BD Notes it receives pursuant to the Exchange to the trustee of the BD Notes for cancellation, and (y) Morgan Stanley, as the sole book-running manager thereof, intends to sell the Initial Notes received therefrom to certain third-party investors, pursuant to, and in accordance with, the restrictions and regulations as set forth in the Indenture and the Offering Memorandum.

5. Guarantees; Collateral.

On the Issue Date, BD shall execute and deliver to the Trustee the Parent Guaranty Agreement, pursuant to which, the Notes will initially be guaranteed on an unsecured, unsubordinated basis by BD. Pursuant to the BD Guarantee as set forth in the Parent Guaranty Agreement, BD will unconditionally guarantee on an unsecured, unsubordinated basis, the full and punctual payment when due, whether at stated maturity, by acceleration or otherwise, of principal of, premium, if any, and interest on the Notes and the other Obligations of the Issuer under this Indenture and the Notes. Pursuant to the Parent Guaranty Agreement, the BD Guarantee will be automatically and unconditionally terminated and released, without any action on the part of the Trustee, any Holder of the Notes or any other Person, upon the satisfaction of the BD Guarantee Release Condition.

(x) On the Spin-Off Date, each of the Subsidiaries of the Issuer that is required to guarantee the obligations under the Credit Agreement on or in connection with the Spin-Off Date shall execute and deliver to the Trustee the Supplemental Indenture and (y) subject to the provisions of Article X of the Indenture, from and after the Spin-Off Date, each Subsidiary of the Issuer that executes a supplemental indenture pursuant to which it agrees to become a Guarantor under the Indenture will, in each case, fully, unconditionally and irrevocably guarantee on a senior secured basis, as primary obligor and not merely as surety, jointly and severally with each other Guarantor, to each Holder, and the Trustee and the Notes Collateral Agent the full and punctual payment when due, whether at maturity, by acceleration, by redemption or otherwise (including the amount that would become due but for the operation of the automatic stay under Section 362(a) of the Bankruptcy Law), of the principal of, premium, if any, and interest on the Notes and all other Obligations and liabilities of the Issuer under the Indenture and the Notes when and as the same shall be due and payable.

Prior to the Spin-Off Date, the Notes and the BD Guarantee will be unsecured obligations. On and following the Spin-Off Date, subject to the provisions of the Indenture, the Notes and the Subsidiary Guarantees shall be secured by a first-priority security interest (subject to Permitted Liens) in the Collateral owned by the Issuer and such Guarantor on a *pari passu* basis with the other First Lien Obligations pursuant to the terms of the Notes Security Documents and the First Lien Pari Passu Intercreditor Agreement.

6. Redemption

(a) At any time on or prior to February 15, 2027, the Issuer may not redeem the Notes at its option.

(b) At any time and from time to time after February 15, 2027, the Issuer may redeem the Notes, in whole or in part, upon at least 10 but not more than 60 days' prior notice, with a copy to the Trustee, to each Holder of Notes to the address of such Holder appearing in the Notes Register at a redemption price equal to the percentage of the principal amount of the Notes to be redeemed as set forth in the table below, plus accrued and unpaid interest thereon, if any, to, but excluding the applicable Redemption Date, subject to the right of Holders of record of the Notes on the relevant record date to receive interest due on the relevant interest payment date, if redeemed during the twelve-month period beginning on February 15 of each of the years indicated in the table below:

Year	Percentage
2027	101.688%
2028 and thereafter	100.000%

(c) Notwithstanding the foregoing, in connection with any tender offer for the Notes, including a Change of Control Offer or Asset Disposition Offer, if Holders of not less than 90.0% in aggregate principal amount of the outstanding Notes validly tender and do not validly withdraw such Notes in such tender offer and the Issuer, or any third party making such tender offer in lieu of the Issuer, purchases all of the Notes validly tendered and not validly withdrawn by such Holders, the Issuer or such third party shall have the right upon at least 10 but not more than 60 days' prior notice, with a copy to the Trustee, to each Holder of Notes to the address of such Holder appearing in the Notes Register, to redeem all Notes that remain outstanding following such purchase at a redemption price equal to the price offered to each other Holder (excluding any early tender or incentive fee) in such tender offer plus, to the extent not included in the tender offer payment, accrued and unpaid interest, if any, thereon, to but excluding, the date of such redemption. In determining whether the Holders of at least 90% of the aggregate principal amount of the outstanding Notes have validly tendered and not validly withdrawn such Notes in a tender offer, including a Change of Control Offer or Asset Disposition Offer, Notes owned by the Issuer or its Affiliates or by funds controlled or managed by any Affiliate of the Issuer, or any successor thereof, shall be deemed to be outstanding for the purposes of such tender offer.

(d) Unless the Issuer defaults in the payment of the redemption price, interest will cease to accrue on the Notes or portions thereof called for redemption on the applicable Redemption Date.

(e) Any redemption pursuant to this paragraph 6 shall be made pursuant to the provisions of Section 5.01 through 5.06 of the Indenture.

Except as set forth in paragraph 7, the Issuer is not required to make mandatory redemption or sinking fund payments with respect to the Notes.

7. Special Mandatory Redemption

(a) If (x) the Spin-Off is not consummated on or prior to 11:59 p.m. on August 5, 2022 (such date and time, the "Outside Date"), (y) prior to the date of the consummation of the Spin-Off (the "Spin-Off Date"), the Issuer notifies the Trustee in writing that BD does not expect to consummate the Spin-Off by the Outside Date, or (z) prior to the Spin-Off Date, BD has made a public announcement that it has determined not to proceed with the Spin-Off (the earliest date of any such event described in the foregoing clauses (x), (y), or (z) being the "Special Termination Date"), then the Issuer shall redeem all of the Notes (the "Special Mandatory Redemption") at a special mandatory redemption price (the "Special Mandatory Redemption Price") equal to 100% of the aggregate principal amount of the Notes, plus accrued and unpaid interest on the Notes, if any, from the Issue Date to, but excluding, the Special Mandatory Redemption Date (as defined below), subject to the right of Holders of record on the relevant record date to receive interest due on the relevant interest payment date.

(b) Notice of a Special Mandatory Redemption shall be delivered by the Issuer electronically or, at the Issuer's option, mailed by first-class mail by the Issuer substantially in the form attached as Exhibit C hereto no later than two (2) Business Days following the applicable Special Termination Date, to the Trustee and the Holders, and will provide that the Notes shall be redeemed at the Special Mandatory Redemption Price on the third Business Day after such notice is given by the Issuer (such date, the "Special Mandatory Redemption Date") in accordance with the terms of this

Indenture or otherwise in accordance with the applicable procedures of DTC. If funds sufficient to pay the applicable Special Mandatory Redemption Price in respect of the Notes to be redeemed on the Special Mandatory Redemption Date are deposited with the Trustee on or before such Special Mandatory Redemption Date, then the Notes to be redeemed will cease to bear interest on and after the Special Mandatory Redemption Date. For the avoidance of doubt, the Issuer shall not be required to effect any Special Mandatory Redemption following the time of the consummation of the Spin-Off.

8. Repurchase Provisions

If a Change of Control occurs, except as provided in the Indenture, the Issuer shall make an offer to purchase all of the Notes at a price in cash equal to 101.0% of the aggregate principal amount thereof plus accrued and unpaid interest, to, but excluding the applicable date of purchase; *provided* that if the repurchase date is on or after the record date and on or before the corresponding interest payment date, then Holders in whose names the Notes are registered at the close of business on such record date will receive the interest due on the repurchase date, as provided in, and subject to the terms of, the Indenture.

Upon certain Asset Dispositions, the Issuer may be required to use the Excess Proceeds from such Asset Dispositions to offer to purchase Notes and, at the Issuer's option, Pari Passu Indebtedness out of the Excess Proceeds in accordance with the procedures set forth in Section 3.05 and in Article V of the Indenture.

9. Denominations; Transfer; Exchange

The Notes shall be issuable only in fully registered form in minimum denominations of principal amount of $2,000 and any integral multiple of $1,000 in excess thereof. A Holder may transfer or exchange Notes in accordance with the Indenture. The Registrar may require a Holder, among other things, to furnish appropriate endorsements or transfer documents and to pay a sum sufficient to cover any tax and fees required by law or permitted by the Indenture. The Registrar need not register the transfer of or exchange of any Note (A) for a period beginning (1) fifteen (15) calendar days before the mailing of a notice (or electronic delivery) of a notice of an offer to repurchase or redeem Notes and ending at the close of business on the day of such mailing (or electronic delivery) or (2) fifteen (15) calendar days before an Interest Payment Date and ending on such Interest Payment Date or (B) called for redemption, except the unredeemed portion of any Note being redeemed in part.

10. Persons Deemed Owners

The registered Holder of this Note may be treated as the owner of it for all purposes.

11. Unclaimed Money

If money for the payment of principal, premium, if any, or interest remains unclaimed for two years, the Trustee or Paying Agent shall pay the money back to the Issuer at its written request unless an abandoned property law designates another Person to receive such money. After any such payment, Holders entitled to the money must look only to the Issuer and not to the Trustee for payment as general creditors unless an abandoned property law designates another person for payment.

12. Discharge and Defeasance

Subject to certain exceptions and conditions set forth in the Indenture, the Issuer at any time may terminate some or all of its obligations under the Notes and the Indenture if the Issuer deposits with the Trustee money or U.S. Government Obligations for the payment of principal, premium, if any and interest on the Notes to redemption or maturity, as the case may be.

13. Amendment, Supplement, Waiver

Subject to certain exceptions contained in the Indenture, the Indenture, the Notes and the other Note Documents may be amended, or a Default thereunder may be waived, with the consent of the Holders of a majority in aggregate principal amount of the outstanding Notes. Without notice to or the consent of any Holder, the Issuer, the Guarantors, the Trustee and the Notes Collateral Agent, as applicable, may amend or supplement the Indenture, the Notes and the other Note Documents as provided in the Indenture.

14. Defaults and Remedies

If an Event of Default (other than an Event of Default relating to certain events of bankruptcy, insolvency or reorganization of the Issuer or certain Guarantors) occurs and is continuing, the Trustee by written notice to the Issuer, or the Holders of at least 30.0% in aggregate principal amount of the outstanding Notes by written notice to the Issuer and the Trustee, may declare the principal of and accrued and unpaid interest, if any, and any other monetary obligations on all the Notes to be due and payable immediately. Upon the effectiveness of such declaration, such principal, unpaid interest, if any, and other monetary obligations will be due and payable immediately. If a bankruptcy, insolvency or reorganization of the Issuer or a Material Subsidiary (or any group of Restricted Subsidiaries, that taken together as of the latest audited consolidated financial statements for the Issuer and its Restricted Subsidiaries, would constitute a Material Subsidiary) occurs and is continuing, the principal of and accrued and unpaid interest, if any, and any other monetary obligations on all the Notes will become and be immediately due and payable without any declaration or other act on the part of the Trustee or any Holders. Under certain circumstances, the Holders of a majority in aggregate principal amount of the outstanding Notes may rescind any such acceleration with respect to the Notes and its consequences.

15. Trustee Dealings with the Issuer

Subject to certain limitations set forth in the Indenture, the Trustee in its individual or any other capacity may become the owner or pledgee of Notes and may otherwise deal with the Issuer, Guarantors or their Affiliates with the same rights it would have if it were not Trustee. In addition, the Trustee shall be permitted to engage in transactions with the Issuer and its Affiliates and Subsidiaries.

16. No Recourse Against Others

No director, officer, employee, incorporator or shareholder of the Issuer or any of its Subsidiaries or Affiliates, as such (other than the Issuer and the Guarantors), shall have any liability for any obligations of the Issuer or the Guarantors under the Notes, the Guarantees or the Indenture or for any claim based on, in respect of, or by reason of such obligations or their creation. Each Holder by accepting a note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes. Such waiver may not be effective to waive liabilities under the federal securities laws and it is the view of the SEC that such a waiver is against public policy.

17. Authentication

This Note shall not be valid until an authorized signatory of the Trustee (or an authenticating agent acting on its behalf) manually signs the certificate of authentication on the other side of this Note.

18. Abbreviations

Customary abbreviations may be used in the name of a Holder or an assignee, such as TEN COM (= tenants in common), TEN ENT (= tenants by the entirety), JT TEN (= joint tenants with rights of survivorship and not as tenants in common), CUST (= custodian) and U/G/M/A (= Uniform Gift to Minors Act).

19. CUSIP and ISIN Numbers

The Issuer has caused CUSIP and ISIN numbers, if applicable, to be printed on the Notes and has directed the Trustee to use CUSIP and ISIN numbers, if applicable, in notices of redemption or purchase as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption or purchase and reliance may be placed only on the other identification numbers placed thereon.

20. Governing Law

This Note shall be governed by, and construed in accordance with, the laws of the State of New York.

The Issuer will furnish to any Holder upon written request and without charge to the Holder a copy of the Indenture. Requests may be made to:

Embecta Corp.
1 Becton Drive
Franklin Lakes, NJ 07417
Attention: Corporate Secretary

ASSIGNMENT FORM

To assign this Note, fill in the form below:

I or we assign and transfer this Note to:

(Print or type assignee's name, address and zip code)

(Insert assignee's social security or tax I.D. No.)

and irrevocably appoint _____ agent to transfer this Note on the books of the Issuer. The agent may substitute another to act for him.

Date: Your Signature: _____

Signature Guarantee: _____

(Signature must be guaranteed)

Sign exactly as your name appears on the other side of this Note.

The signature(s) should be guaranteed by an eligible guarantor institution (banks, stockbrokers, savings and loan associations and credit unions with membership in an approved signature guarantee medallion program), pursuant to Exchange Act Rule 17Ad-15.

The undersigned hereby certifies that it ☐ is / ☐ is not an Affiliate of the Issuer and that, to its knowledge, the proposed transferee ☐ is / ☐ is not an Affiliate of the Issuer.

In connection with any transfer or exchange of any of the Notes evidenced by this certificate occurring prior to the date that is one year after the later of the date of original issuance of such Notes and the last date, if any, on which such Notes were owned by the Issuer or any Affiliate of the Issuer, the undersigned confirms that such Notes are being:

CHECK ONE BOX BELOW:

(1) ☐ acquired for the undersigned's own account, without transfer; or

(2) ☐ transferred to the Issuer; or

(3) ☐ transferred pursuant to and in compliance with Rule 144A under the Securities Act of 1933, as amended (the "Securities Act"); or

(4) ☐ transferred pursuant to an effective registration statement under the Securities Act; or

(5) ☐ transferred pursuant to and in compliance with Regulation S under the Securities Act; or

(6) ☐ transferred to an institutional "accredited investor" (as defined in Rule 501(a)(1), (2), (3) or (7) under the Securities Act) or an "accredited investor" (as defined in Rule 501(a)(4) under the Securities Act), that has furnished to the Trustee a signed letter containing certain representations and agreements (the form of which letter appears as Section 2.08 or 2.10 of the Indenture, respectively); or

(7) ☐ transferred pursuant to another available exemption from the registration requirements of the Securities Act of 1933, as amended.

Unless one of the boxes is checked, the Trustee will refuse to register any of the Notes evidenced by this certificate in the name of any person other than the registered Holder thereof; *provided*, *however*, that if box (5), (6) or (7) is checked, the Issuer may require, prior to registering any such transfer of the Notes, in its sole discretion, such legal opinions, certifications and other information as the Issuer may reasonably request to confirm that such transfer is being made pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act of 1933, as amended, such as the exemption provided by Rule 144 under such Act.

_____

Signature

Signature Guarantee:

_____ _____

(Signature must be guaranteed) Signature

The signature(s) should be guaranteed by an eligible guarantor institution (banks, stockbrokers, savings and loan associations and credit unions with membership in an approved signature guarantee medallion program), pursuant to Exchange Act Rule 17Ad-15.

TO BE COMPLETED BY PURCHASER IF BOX (1) OR (3) ABOVE IS CHECKED.

The undersigned represents and warrants that it is purchasing this Note for its own account or an account with respect to which it exercises sole investment discretion and that it and any such account is a "qualified institutional buyer" within the meaning of Rule 144A under the Securities Act of 1933, as amended, and is aware that the sale to it is being made in reliance on Rule 144A and acknowledges that it has received such information regarding the Issuer as the undersigned has requested pursuant to Rule 144A or has determined not to request such information and that it is aware that the transferor is relying upon the undersigned's foregoing representations in order to claim the exemption from registration provided by Rule 144A.

_____

Dated:

[TO BE ATTACHED TO GLOBAL NOTES]

SCHEDULE OF INCREASES OR DECREASES IN GLOBAL NOTES

The following increases or decreases in this Global Note have been made:

Date of Exchange	Amount of decrease in Principal Amount of this Global Note	Amount of increase in Principal Amount of this Global Note	Principal Amount of this Global Note following such decrease or increase	Signature of authorized signatory of Trustee or Notes Custodian

OPTION OF HOLDER TO ELECT PURCHASE

If you elect to have this Note purchased by the Issuer pursuant to Section 3.05 or Section 3.09 of the Indenture, check either box:

Section 3.05 ☐ Section 3.09 ☐

If you want to elect to have only part of this Note purchased by the Issuer pursuant to Section 3.05 or Section 3.09 of the Indenture, state the principal amount (must be in minimum denominations of $2,000 or an integral multiple of $1,000 in excess thereof):
$_____ and specify the denomination or denominations (which shall not be less than the minimum authorized denomination) of the Notes to be issued to the Holder for the portion of the within Note not being repurchased (in the absence of any such specification, one such Note will be issued for the portion not being repurchased): _____.

Date: _____ Your Signature _____

(Sign exactly as your name appears on the other side of the Note)

Signature Guarantee: _____

(Signature must be guaranteed)

The signature(s) should be guaranteed by an eligible guarantor institution (banks, stockbrokers, savings and loan associations and credit unions with membership in an approved signature guarantee medallion program), pursuant to Exchange Act Rule 17Ad-15.

EXHIBIT B

Form of Supplemental Indenture to Add Guarantors

[ ] SUPPLEMENTAL INDENTURE, dated as of [ ] (this "Supplemental Indenture"), by and among the parties that are signatories hereto as Guarantors (each, a "Guaranteeing Subsidiary" and together, the "Guaranteeing Subsidiaries"), Embecta Corp., a Delaware Corporation (the "Issuer"), and U.S. Bank Trust Company, National Association, as trustee under the Indenture referred to below (in such capacity, the "Trustee") and as notes collateral agent under the Indenture referred to below (in such capacity, the "Notes Collateral Agent").

W I T N E S S E T H:

WHEREAS, the Issuer, the Trustee and the Notes Collateral Agent have heretofore executed and delivered an indenture, dated as of March 31, 2022 (as it may be amended or supplemented from time to time in accordance with the terms thereof, the "Indenture"), providing for the issuance of $200,000,000 aggregate principal amount of 6.750% Senior Secured Notes due 2030 (the "Notes");

WHEREAS, the Indenture provides that, under certain circumstances, each Guaranteeing Subsidiary shall execute and deliver to the Trustee a supplemental indenture pursuant to which such Guaranteeing Subsidiary shall unconditionally guarantee, on a joint and several basis with the other Guaranteeing Subsidiaries and the other Guarantors, all of the Issuer's Obligations under the Notes and the Indenture on the terms and conditions set forth herein and under the Indenture (the "Guarantee"); and

WHEREAS, pursuant to Section 9.01 of the Indenture, the Issuer, any Guarantor, the Trustee and the Notes Collateral Agent are authorized to execute and deliver this Supplemental Indenture without the consent of any Holder of the Notes;

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Guaranteeing Subsidiary, the Issuer, the other Guarantors, the Trustee and the Notes Collateral Agent mutually covenant and agree for the equal and ratable benefit of the Holders as follows:

ARTICLE I

DEFINITIONS

Section 1.1. *Defined Terms*. As used in this Supplemental Indenture, terms defined in the Indenture or in the preamble or recitals hereto are used herein as therein defined. The words "herein," "hereof" and "hereby" and other words of similar import used in this Supplemental Indenture refer to this Supplemental Indenture as a whole and not to any particular Section hereof.

ARTICLE II

AGREEMENT TO BE BOUND; GUARANTEE

Section 2.1. *Agreement to be Bound*. Each Guaranteeing Subsidiary hereby becomes a party to the Indenture as a Guarantor and as such will have all of the rights and be subject to all of the obligations and agreements of a Guarantor under the Indenture.

Section 2.2. *Guarantee*. Each Guaranteeing Subsidiary agrees, on a joint and several basis with all the existing Guarantors [and the other Guaranteeing Subsidiaries], to fully, unconditionally and irrevocably Guarantee to each Holder of the Notes and the Trustee the Guaranteed Obligations pursuant to Article X of the Indenture on a senior basis.

ARTICLE III

MISCELLANEOUS

Section 3.1. *Notices*. All notices and other communications to the Issuer and the Guaranteeing Subsidiaries shall be given as provided in the Indenture to such Guaranteeing Subsidiaries, at their addresses set forth below, with a copy to the Issuer as provided in the Indenture for notices to the Issuer.

[INSERT ADDRESS]

Section 3.2. [*Reserved*].

Section 3.3. *Release of Guarantee*. This Guarantee shall be released in accordance with Section 10.02 of the Indenture.

Section 3.4. *Parties*. Nothing expressed or mentioned herein is intended or shall be construed to give any Person, firm or corporation, other than the Holders and the Trustee, any legal or equitable right, remedy or claim under or in respect of this Supplemental Indenture or the Indenture or any provision herein or therein contained.

Section 3.5. *Governing Law*. This Supplemental Indenture shall be governed by, and construed in accordance with, the laws of the State of New York.

Section 3.6. *Severability*. In case any provision in this Supplemental Indenture shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby and such provision shall be ineffective only to the extent of such invalidity, illegality or unenforceability.

Section 3.7. *Benefits Acknowledged*. Each Guaranteeing Subsidiary's Guarantee is subject to the terms and conditions set forth in the Indenture. Each Guaranteeing Subsidiary acknowledges that it will receive direct and indirect benefits from the financing arrangements contemplated by the Indenture and this Supplemental Indenture and that the guarantee and waivers made by it pursuant to this Guarantee are knowingly made in contemplation of such benefits.

Section 3.8. *Ratification of Indenture; Supplemental Indentures Part of Indenture*. Except as expressly amended hereby, the Indenture is in all respects ratified and confirmed and all the terms, conditions and provisions thereof shall remain in full force and effect. This Supplemental Indenture shall form a part of the Indenture for all purposes, and every Holder of Notes heretofore or hereafter authenticated and delivered shall be bound hereby.

Section 3.9. *The Trustee and the Notes Collateral Agent*. Neither the Trustee nor the Notes Collateral Agent make any representation or warranty as to the validity or sufficiency of this Supplemental Indenture or with respect to the recitals contained herein, all of which recitals are made solely by the other parties hereto.

Section 3.10. *Counterparts*. The parties hereto may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement. This Supplemental Indenture may be executed in multiple counterparts, which, when taken together, shall constitute one instrument. The exchange of copies of this Supplemental Indenture and of signature pages by facsimile, PDF or other electronic transmission shall constitute effective execution and delivery of this Supplemental Indenture as to the parties hereto and may be used in lieu of the original Supplemental Indenture for all purposes. Signatures of the parties hereto transmitted by facsimile, PDF or other electronic transmission shall be deemed to be their original signatures for all purposes.

Section 3.11. *Execution and Delivery*. Each Guaranteeing Subsidiary agrees that its Guarantee shall remain in full force and effect notwithstanding any failure to endorse on each Note a notation of any such Guarantee.

Section 3.12. *Headings*. The headings of the Articles and the Sections in this Supplemental Indenture are for convenience of reference only and shall not be deemed to alter or affect the meaning or interpretation of any provisions hereof.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed as of the date first above written.

[GUARANTEEING SUBSIDIARY],
as a Guarantor

By: _____
Name:
Title:

EMBECTA CORP., as Issuer

By: _____
Name:
Title:

[Signature Page to Supplemental Indenture]

U.S. Bank Trust Company, National Association,
as Trustee and as Notes Collateral Agent

By: _____
Name:
Title:

[Signature Page to Supplemental Indenture]

EXHIBIT C

Form of Special Mandatory Redemption Notice

TO THE HOLDERS OF

6.750% Senior Secured Notes due 2030

NOTICE IS HEREBY GIVEN that Embecta Corp., a Delaware corporation (the "**Issuer**"), pursuant to the Indenture, dated as of March 31, 2022 (the "**Indenture**"), among the Issuer and U.S. Bank Trust Company, National Association, as trustee (the "**Trustee**") and as notes collateral agent, will redeem all of its outstanding 6.750% Senior Secured Notes due 2030 (the "**Notes**") on [_____], 2022 (the "**Redemption Date**") pursuant to Section 5.09(a) of the Indenture and paragraph 7 of the Notes. The redemption price for each Note will be $1,000 per $1,000 principal amount thereof, plus accrued and unpaid interest thereon from [March 31, 2022][[•][•] (the last date on which interest was paid on the Notes)] to, but excluding, the Redemption Date (the "**Redemption Price**"). Capitalized terms used herein (but otherwise not defined) shall have such meanings as set forth in the Indenture.

Unless the Issuer defaults in payment of the Redemption Price, interest on the Notes called for redemption shall cease to accrue on and after the Redemption Date.

In order to receive the redemption payment, the Notes called for redemption must be surrendered for payment at the following location of U.S. Bank Trust Company, National Association, the Trustee and Paying Agent. Notes to be redeemed must be surrendered for payment: (a) in book-entry form by transferring the Notes to be redeemed to the Trustee's account at The Depository Trust Company ("**DTC**") in accordance with DTC's procedures; or (b) by delivering the Notes to be redeemed to the Trustee at:

U.S. Bank Trust Company, National Association
333 Thornall Street
Edison, NJ 08837
Attention: Mark DiGiacomo

The method of delivery of the Notes is at the election and risk of the Holder. If delivered by mail, certified or registered mail, properly insured, is recommended.

No representation is being made as to the correctness of the CUSIP numbers either as printed on the Notes or as contained in this notice. Holders should rely only on the other identification numbers printed on the Notes.

IMPORTANT NOTICE

For holders of Notes who have not established an exemption, payments made upon the redemption of the Notes may be subject to U.S. federal withholding of 24% of the payments to be made, as and to the extent required by the provisions of the U.S. Internal Revenue Code. To establish an exemption from such withholding, holders of Notes should submit a completed and signed Internal Revenue Service Form W-9 (or applicable Internal Revenue Service Form W-8) when surrendering their Notes for payment.

Date: [_____], 20[_]

By: EMBECTA CORP.

Exhibit 4.2

EXECUTION VERSION

Supplemental Indenture to Add Guarantors

FIRST SUPPLEMENTAL INDENTURE, dated as of April 1, 2022 (this "Supplemental Indenture"), by and among the parties that are signatories hereto as Guarantors (each, a "Guaranteeing Subsidiary" and together, the "Guaranteeing Subsidiaries"), Embecta Corp., a Delaware Corporation (the "Issuer"), and U.S. Bank Trust Company, National Association, as trustee under the Indenture referred to below (in such capacity, the "Trustee") and as notes collateral agent under the Indenture referred to below (in such capacity, the "Notes Collateral Agent").

W I T N E S S E T H:

WHEREAS, the Issuer, the Trustee and the Notes Collateral Agent have heretofore executed and delivered an indenture, dated as of March 31, 2022 (as it may be amended or supplemented from time to time in accordance with the terms thereof, the "Indenture"), providing for the issuance of $200,000,000 aggregate principal amount of 6.750% Senior Secured Notes due 2030 (the "Notes");

WHEREAS, the Indenture provides that, under certain circumstances, each Guaranteeing Subsidiary shall execute and deliver to the Trustee a supplemental indenture pursuant to which such Guaranteeing Subsidiary shall unconditionally guarantee, on a joint and several basis with the other Guaranteeing Subsidiaries and the other Guarantors, all of the Issuer's Obligations under the Notes and the Indenture on the terms and conditions set forth herein and under the Indenture (the "Guarantee"); and

WHEREAS, pursuant to Section 9.01 of the Indenture, the Issuer, any Guarantor, the Trustee and the Notes Collateral Agent are authorized to execute and deliver this Supplemental Indenture without the consent of any Holder of the Notes;

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Guaranteeing Subsidiary, the Issuer, the other Guarantors, the Trustee and the Notes Collateral Agent mutually covenant and agree for the equal and ratable benefit of the Holders as follows:

ARTICLE I

DEFINITIONS

Section 1.1. *Defined Terms*. As used in this Supplemental Indenture, terms defined in the Indenture or in the preamble or recitals hereto are used herein as therein defined. The words "herein," "hereof" and "hereby" and other words of similar import used in this Supplemental Indenture refer to this Supplemental Indenture as a whole and not to any particular Section hereof.

ARTICLE II

AGREEMENT TO BE BOUND; GUARANTEE

Section 2.1. *Agreement to be Bound*. Each Guaranteeing Subsidiary hereby becomes a party to the Indenture as a Guarantor and as such will have all of the rights and be subject to all of the obligations and agreements of a Guarantor under the Indenture.

Section 2.2. *Guarantee*. Each Guaranteeing Subsidiary agrees, on a joint and several basis with all the existing Guarantors, to fully, unconditionally and irrevocably Guarantee to each Holder of the Notes and the Trustee the Guaranteed Obligations pursuant to Article X of the Indenture on a senior basis.

ARTICLE III

MISCELLANEOUS

Section 3.1. *Notices*. All notices and other communications to the Issuer and the Guaranteeing Subsidiaries shall be given as provided in the Indenture to such Guaranteeing Subsidiaries, at their addresses set forth below, with a copy to the Issuer as provided in the Indenture for notices to the Issuer.

Embecta Corp.
300 Kimball Drive
Parsippany, NJ 07054
Attention: Investor Relations
Phone: 1-800-284-6845

Section 3.2. [*Reserved*].

Section 3.3. *Release of Guarantee*. This Guarantee shall be released in accordance with Section 10.02 of the Indenture.

Section 3.4. *Parties*. Nothing expressed or mentioned herein is intended or shall be construed to give any Person, firm or corporation, other than the Holders and the Trustee, any legal or equitable right, remedy or claim under or in respect of this Supplemental Indenture or the Indenture or any provision herein or therein contained.

Section 3.5. *Governing Law*. This Supplemental Indenture shall be governed by, and construed in accordance with, the laws of the State of New York.

Section 3.6. *Severability*. In case any provision in this Supplemental Indenture shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby and such provision shall be ineffective only to the extent of such invalidity, illegality or unenforceability.

Section 3.7. *Benefits Acknowledged*. Each Guaranteeing Subsidiary's Guarantee is subject to the terms and conditions set forth in the Indenture. Each Guaranteeing Subsidiary acknowledges that it will receive direct and indirect benefits from the financing arrangements contemplated by the Indenture and this Supplemental Indenture and that the guarantee and waivers made by it pursuant to this Guarantee are knowingly made in contemplation of such benefits.

Section 3.8. *Ratification of Indenture; Supplemental Indentures Part of Indenture*. Except as expressly amended hereby, the Indenture is in all respects ratified and confirmed and all the terms, conditions and provisions thereof shall remain in full force and effect. This Supplemental Indenture shall form a part of the Indenture for all purposes, and every Holder of Notes heretofore or hereafter authenticated and delivered shall be bound hereby.

Section 3.9. *The Trustee and the Notes Collateral Agent*. Neither the Trustee nor the Notes Collateral Agent make any representation or warranty as to the validity or sufficiency of this Supplemental Indenture or with respect to the recitals contained herein, all of which recitals are made solely by the other parties hereto.

Section 3.10. *Counterparts*. The parties hereto may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement. This Supplemental Indenture may be executed in multiple counterparts, which, when taken together, shall constitute one instrument. The exchange of copies of this Supplemental Indenture and of signature pages by facsimile, PDF or other electronic transmission shall constitute effective execution and delivery of this Supplemental Indenture as to the parties hereto and may be used in lieu of the original Supplemental Indenture for all purposes. Signatures of the parties hereto transmitted by facsimile, PDF or other electronic transmission shall be deemed to be their original signatures for all purposes.

Section 3.11. *Execution and Delivery*. Each Guaranteeing Subsidiary agrees that its Guarantee shall remain in full force and effect notwithstanding any failure to endorse on each Note a notation of any such Guarantee.

Section 3.12. *Headings*. The headings of the Articles and the Sections in this Supplemental Indenture are for convenience of reference only and shall not be deemed to alter or affect the meaning or interpretation of any provisions hereof.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed as of the date first above written.

EMBECTA CORP., as Issuer

By: */s/ Jacob Elguicze*
Name: Jacob Elguicze
Title: Chief Financial Officer

BERRA HOLDINGS II LLC
BERRA OPERATIONS LLC
MWB SHELFCO 201 LLC, each as a Guarantor

By: */s/ Jeffrey Mann*
Name: Jeffrey Mann
Title: Secretary

[Signature Page to Supplemental Indenture]

U.S. Bank Trust Company, National Association, as Trustee and as Notes Collateral Agent

By: */s/ Mark DiGiacomo*
Name: Mark DiGiacomo
Title: Vice President

[Signature Page to Supplemental Indenture]

Exhibit 4.4

Execution Version

Supplemental Indenture to Add Guarantors

FIRST SUPPLEMENTAL INDENTURE, dated as of April 1, 2022 (this "Supplemental Indenture"), by and among the parties that are signatories hereto as Guarantors (each, a "Guaranteeing Subsidiary" and together, the "Guaranteeing Subsidiaries"), Embecta Corp., a Delaware Corporation (the "Issuer"), and U.S. Bank Trust Company, National Association, as trustee under the Indenture referred to below (in such capacity, the "Trustee") and as notes collateral agent under the Indenture referred to below (in such capacity, the "Notes Collateral Agent").

W I T N E S S E T H:

WHEREAS, the Issuer, the Trustee and the Notes Collateral Agent have heretofore executed and delivered an indenture, dated as of February 10, 2022 (as it may be amended or supplemented from time to time in accordance with the terms thereof, the "Indenture"), providing for the issuance of $500,000,000 aggregate principal amount of 5.000% Senior Secured Notes due 2030 (the "Notes");

WHEREAS, the Indenture provides that, under certain circumstances, each Guaranteeing Subsidiary shall execute and deliver to the Trustee a supplemental indenture pursuant to which such Guaranteeing Subsidiary shall unconditionally guarantee, on a joint and several basis with the other Guaranteeing Subsidiaries and the other Guarantors, all of the Issuer's Obligations under the Notes and the Indenture on the terms and conditions set forth herein and under the Indenture (the "Guarantee"); and

WHEREAS, pursuant to Section 9.01 of the Indenture, the Issuer, any Guarantor, the Trustee and the Notes Collateral Agent are authorized to execute and deliver this Supplemental Indenture without the consent of any Holder of the Notes;

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Guaranteeing Subsidiary, the Issuer, the other Guarantors, the Trustee and the Notes Collateral Agent mutually covenant and agree for the equal and ratable benefit of the Holders as follows:

ARTICLE I

DEFINITIONS

Section 1.1. *Defined Terms*. As used in this Supplemental Indenture, terms defined in the Indenture or in the preamble or recitals hereto are used herein as therein defined. The words "herein," "hereof" and "hereby" and other words of similar import used in this Supplemental Indenture refer to this Supplemental Indenture as a whole and not to any particular Section hereof.

ARTICLE II

AGREEMENT TO BE BOUND; GUARANTEE

Section 2.1. *Agreement to be Bound*. Each Guaranteeing Subsidiary hereby becomes a party to the Indenture as a Guarantor and as such will have all of the rights and be subject to all of the obligations and agreements of a Guarantor under the Indenture.

Section 2.2. *Guarantee*. Each Guaranteeing Subsidiary agrees, on a joint and several basis with all the existing Guarantors, to fully, unconditionally and irrevocably Guarantee to each Holder of the Notes and the Trustee the Guaranteed Obligations pursuant to Article X of the Indenture on a senior basis.

ARTICLE III

MISCELLANEOUS

Section 3.1. *Notices*. All notices and other communications to the Issuer and the Guaranteeing Subsidiaries shall be given as provided in the Indenture to such Guaranteeing Subsidiaries, at their addresses set forth below, with a copy to the Issuer as provided in the Indenture for notices to the Issuer.

Embecta Corp.
300 Kimball Drive
Parsippany, NJ 07054
Attention: Investor Relations
Phone: 1-800-284-6845

Section 3.2. [*Reserved*].

Section 3.3. *Release of Guarantee*. This Guarantee shall be released in accordance with Section 10.02 of the Indenture.

Section 3.4. *Parties*. Nothing expressed or mentioned herein is intended or shall be construed to give any Person, firm or corporation, other than the Holders and the Trustee, any legal or equitable right, remedy or claim under or in respect of this Supplemental Indenture or the Indenture or any provision herein or therein contained.

Section 3.5. *Governing Law*. This Supplemental Indenture shall be governed by, and construed in accordance with, the laws of the State of New York.

Section 3.6. *Severability*. In case any provision in this Supplemental Indenture shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby and such provision shall be ineffective only to the extent of such invalidity, illegality or unenforceability.

Section 3.7. *Benefits Acknowledged*. Each Guaranteeing Subsidiary's Guarantee is subject to the terms and conditions set forth in the Indenture. Each Guaranteeing Subsidiary acknowledges that it will receive direct and indirect benefits from the financing arrangements contemplated by the Indenture and this Supplemental Indenture and that the guarantee and waivers made by it pursuant to this Guarantee are knowingly made in contemplation of such benefits.

Section 3.8. *Ratification of Indenture; Supplemental Indentures Part of Indenture*. Except as expressly amended hereby, the Indenture is in all respects ratified and confirmed and all the terms, conditions and provisions thereof shall remain in full force and effect. This Supplemental Indenture shall form a part of the Indenture for all purposes, and every Holder of Notes heretofore or hereafter authenticated and delivered shall be bound hereby.

Section 3.9. *The Trustee and the Notes Collateral Agent*. Neither the Trustee nor the Notes Collateral Agent make any representation or warranty as to the validity or sufficiency of this Supplemental Indenture or with respect to the recitals contained herein, all of which recitals are made solely by the other parties hereto.

Section 3.10. *Counterparts*. The parties hereto may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement. This Supplemental Indenture may be executed in multiple counterparts, which, when taken together, shall constitute one instrument. The exchange of copies of this Supplemental Indenture and of signature pages by facsimile, PDF or other electronic transmission shall constitute effective execution and delivery of this Supplemental Indenture as to the parties hereto and may be used in lieu of the original Supplemental Indenture for all purposes. Signatures of the parties hereto transmitted by facsimile, PDF or other electronic transmission shall be deemed to be their original signatures for all purposes.

Section 3.11. *Execution and Delivery*. Each Guaranteeing Subsidiary agrees that its Guarantee shall remain in full force and effect notwithstanding any failure to endorse on each Note a notation of any such Guarantee.

Section 3.12. *Headings*. The headings of the Articles and the Sections in this Supplemental Indenture are for convenience of reference only and shall not be deemed to alter or affect the meaning or interpretation of any provisions hereof.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed as of the date first above written.

EMBECTA CORP., as Issuer

By: */s/ Jacob Elguicze*
Name: Jacob Elguicze
Title: Chief Financial Officer

BERRA HOLDINGS II LLC
BERRA OPERATIONS LLC
MWB SHELFCO 201 LLC, each as a Guarantor

By: */s/ Jeffrey Mann*
Name: Jeffrey Mann
Title: Secretary

[Signature Page to Supplemental Indenture]

U.S. Bank Trust Company, National Association, as Trustee and as Notes Collateral Agent

By: */s/ Mark DiGiacomo*
Name: Mark DiGiacomo
Title: Vice President

[Signature Page to Supplemental Indenture]

Exhibit 10.1

EXECUTION VERSION

TRANSITION SERVICES AGREEMENT

BY AND BETWEEN

BECTON, DICKINSON AND COMPANY

AND

EMBECTA CORP.

DATED AS OF MARCH 31, 2022

TABLE OF CONTENTS

TRANSITION SERVICES AGREEMENT

This TRANSITION SERVICES AGREEMENT, dated as of March 31, 2022 (this "Agreement"), is by and between Becton Dickinson and Company, a New Jersey corporation ("Parent"), and Embecta Corp., a Delaware corporation ("SpinCo").

R E C I T A L S:

WHEREAS, the board of directors of Parent (the "Parent Board") has determined that it is in the best interests of Parent and its shareholders to create a new publicly traded company that shall operate the SpinCo Business;

WHEREAS, in furtherance of the foregoing, the Parent Board has determined that it is appropriate and desirable to separate the SpinCo Business from the Parent Business (the "Separation") and, following the Separation, make a distribution, on a pro rata basis, to holders of Parent Shares on the Record Date of all of the outstanding SpinCo Shares owned by Parent (the "Distribution");

WHEREAS, in order to effectuate the Separation and the Distribution, Parent and SpinCo have entered into a Separation and Distribution Agreement, dated as of the date hereof (the "Separation and Distribution Agreement");

WHEREAS, in order to facilitate and provide for an orderly transition in connection with the Separation and the Distribution, the Parties desire to enter into this Agreement which sets forth the terms of certain relationships and other agreements among the Parties as set forth herein; and

WHEREAS, the Parties acknowledge that this Agreement, the Separation and Distribution Agreement, and the other Ancillary Agreements represent the integrated agreement of Parent and SpinCo relating to the Separation and Distribution, are being entered together, and would not have been entered independently.

NOW, THEREFORE, in consideration of 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, the Parties, intending to be legally bound, hereby agree as follows:

ARTICLE I
DEFINITIONS

Section 1.01. Definitions. For purposes of this Agreement, the following terms shall have the following meanings:

"Action" shall mean any demand, action, claim, dispute, suit, countersuit, arbitration, inquiry, subpoena, proceeding or investigation of any nature (whether criminal, civil, legislative, administrative, regulatory, prosecutorial or otherwise) by or before any federal, state, local, foreign or international Governmental Authority or any arbitration or mediation tribunal.

"Additional Services" shall have the meaning set forth in Section 2.01(b).

"Affiliate" has the meaning set forth in the Separation and Distribution Agreement.

"Agreement" has the meaning set forth in the Preamble.

"Ancillary Agreements" has the meaning set forth in the Separation and Distribution Agreement.

"Applications" means those software applications expressly set forth on Schedule A. All Applications shall be hosted and used exclusively on or through the Host System throughout the term of this Agreement.

"Charge" and "Charges" have the meaning set forth in Section 2.03.

"Confidential Information" shall mean all Information that is either confidential or proprietary.

"Connection Agreement" means the Connection Agreement by and between Service Recipient and Service Provider attached hereto as Schedule B.

"COVID-19" shall mean SARS-CoV-2 or COVID-19, and any evolutions, variants, mutations or worsening thereof or related or associated epidemics, pandemics or disease outbreaks (including any subsequent waves).

"Dispute" has the meaning set forth in Section 8.16(a).

"Distribution" has the meaning set forth in the Recitals.

"Distribution Date" shall mean the date of the consummation of the Distribution, which shall be determined by the Parent Board in its sole and absolute discretion.

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

"e-mail" shall have the meaning set forth in Section 8.10.

"Excluded Service" shall mean any service or function that the Parties had mutually agreed would not be provided under the terms of this Agreement.

"Force Majeure" shall mean, with respect to a Party, an event beyond the reasonable control of such Party (or any Person acting on its behalf), which event (a) does not arise or result from the fault or negligence of such Party (or any Person acting on its behalf) and (b) by its nature would not reasonably have been foreseen by such Party (or such Person), or, if it would reasonably have been foreseen, was unavoidable, and includes acts of God, acts of civil or military authority, acts of terrorism, cyberattacks, embargoes, epidemics, pandemics (including

COVID-19 and Pandemic Measures), war, riots, insurrections, fires, explosions, earthquakes, floods, unusually severe weather conditions, labor problems or unavailability of parts, or, in the case of computer systems, any significant and prolonged failure in electrical or air conditioning equipment. Notwithstanding the foregoing, the receipt by a Party of an unsolicited takeover offer or other acquisition proposal, even if unforeseen or unavoidable, and such Party's response thereto shall not be deemed an event of Force Majeure**.**

"Governmental Authority" shall mean any nation or government, any state, municipality or other political subdivision thereof, and any entity, body, agency, commission, department, board, bureau, court, tribunal or other instrumentality, whether federal, state, local, domestic, foreign or multinational, exercising executive, legislative, judicial, regulatory, administrative or other similar functions of, or pertaining to, government and any executive official thereof.

"Host Systems" shall mean those information technology systems and platforms selected by Service Provider (a) to host the Applications or (b) for use in connection with the performance of Services.

"Information" shall mean information in written, oral, electronic or other tangible or intangible forms, stored in any medium, including studies, reports, records, books, contracts, instruments, surveys, discoveries, ideas, concepts, know-how, techniques, designs, specifications, drawings, blueprints, diagrams, models, prototypes, samples, flow charts, data, computer data, disks, diskettes, tapes, computer programs or other software, marketing plans, customer names, communications by or to attorneys (including attorney-client privileged communications), memos and other materials prepared by attorneys or under their direction (including attorney work product), and other technical, financial, employee or business information or data; provided that Information does not include Intellectual Property Rights.

"Intellectual Property Rights" has the meaning set forth in the Separation and Distribution Agreement.

"Interest Payment" has the meaning set forth in Section 4.02.

"Law" shall mean any national, supranational, federal, state, provincial, local or similar law (including common law), statute, code, order, ordinance, rule, regulation, treaty (including any income tax treaty), license, permit, authorization, approval, consent, decree, injunction, binding judicial or administrative interpretation or other requirement, in each case, enacted, promulgated, issued or entered by a Governmental Authority.

"Level of Service" has the meaning set forth in Section 2.02(c).

"Liabilities" shall mean all debts, guarantees, assurances, commitments, liabilities, responsibilities, Losses, remediation, deficiencies, damages, fines, penalties, settlements, sanctions, costs, expenses, interest and obligations of any nature or kind, whether accrued or fixed, absolute or contingent, matured or unmatured, accrued or not accrued, asserted or unasserted, liquidated or unliquidated, foreseen or unforeseen, known or unknown, reserved or unreserved, or determined or determinable, including those arising under any Law, claim (including any Third-Party Claim), demand, Action, or order, writ, judgment, injunction, decree,

stipulation, determination or award entered by or with any Governmental Authority or arbitration tribunal, and those arising under any contract, agreement, obligation, indenture, instrument, lease, promise, arrangement, release, warranty, commitment or undertaking, or any fines, damages or equitable relief that is imposed, in each case, including all costs and expenses relating thereto.

"Local Agreement" has the meaning set forth in Section 2.08.

"Losses" shall mean actual losses (including any diminution in value), costs, damages, penalties and expenses (including legal and accounting fees and expenses and costs of investigation and litigation), whether or not involving a Third-Party Claim.

"Minimum Service Period" shall mean the period commencing on the Distribution Date and ending ninety (90) days after the Distribution Date, unless otherwise specified with respect to a particular service on the Schedules hereto.

"Pandemic Measures" shall mean any quarantine, "shelter in place," "stay at home," workforce reduction, social distancing, shut down, closure, sequester, immunization requirements, safety or similar Law, directive, guidelines or recommendations promulgated by any Governmental Authority, including the Centers for Disease Control and Prevention and the World Health Organization, in each case, in connection with or in response to a pandemic, including COVID-19.

"Parent" has the meaning set forth in the Preamble.

"Parent Board" has the meaning set forth in the Recitals.

"Parent Business" has the meaning set forth in the Separation and Distribution Agreement.

"Parent Shares" shall mean the shares of common stock, par value $1.00 per share, of Parent.

"Parties" shall mean the parties to this Agreement.

"Person" shall mean an individual, a general or limited partnership, a corporation, a trust, a joint venture, an unincorporated organization, a limited liability entity, any other entity and any Governmental Authority.

"Record Date" shall mean the close of business on the date to be determined by the Parent Board as the record date for determining holders of Parent Shares entitled to receive SpinCo Shares pursuant to the Distribution.

"Representatives" shall mean, with respect to any Person, any of such Person's directors, officers, employees, agents, consultants, advisors, accountants, attorneys or other representatives.

"Separation" has the meaning set forth in the Recitals.

"Separation and Distribution Agreement" has the meaning set forth in the Recitals.

"Service Baseline Period" has the meaning set forth in Section 2.02(c).

"Service Extension" has the meaning set forth in Section 5.03.

"Service Period" shall mean, with respect to any Service, the period commencing on the Distribution Date and ending on the earliest of (a) the date that a Party terminates the provision of such Service pursuant to Section 5.02, (b) the date that is the two (2)-year anniversary of the Distribution Date and (c) the date specified for termination of such Service in the Schedules hereto, unless extended pursuant to Section 5.03.

"Service Provider" shall mean, with respect to any Service, the Party providing such Service.

"Service Provider Indemnitees" has the meaning set forth in Section 7.03.

"Service Recipient" shall mean, with respect to any Service, the Party receiving such Service.

"Service Recipient Individual User" has the meaning set forth in the Connection Agreement.

"Services" has the meaning set forth in Section 2.01(a).

"Service Suspension Period" has the meaning set forth in Section 5.03.

"SpinCo" has the meaning set forth in the Preamble.

"SpinCo Business" has the meaning set forth in the Separation and Distribution Agreement.

"SpinCo Shares" shall mean the shares of common stock, par value $0.01 per share, of SpinCo.

"Subsidiary" shall mean, with respect to any Person, any corporation, limited liability company, joint venture or partnership of which such Person (a) beneficially owns, either directly or indirectly, fifty percent (50%) or more of (i) the total combined voting power of all classes of voting securities, (ii) the total combined equity interests or (iii) the capital or profit interests, in the case of a partnership, or (b) otherwise has the power to vote, either directly or indirectly, sufficient securities to elect a majority of the board of directors or similar governing body.

"Tax" shall mean any and all forms of taxation, whenever created or imposed by a Taxing Authority, and, without limiting the generality of the foregoing, shall include net income, alternative or add-on minimum, estimated, gross income, sales, use, ad valorem, gross receipts, value added, franchise, profits, license, transfer, recording, withholding, payroll, employment,

excise, severance, stamp, occupation, premium, property, windfall profit, custom duty or other tax, governmental fee or other like assessment or charge of any kind whatsoever, together with any related interest, penalties or other additions to tax, or additional amounts imposed by any such Taxing Authority.

"Taxing Authority" shall mean a national, foreign, municipal, state, federal or other Governmental Authority responsible for the administration of any Tax.

"Term" has the meaning set forth in Section 5.01.

"Termination Charges" shall mean, with respect to the termination of any Service pursuant to Section 5.02(a)(i), any and all costs, fees and expenses (other than any severance or retention costs, unless otherwise specified with respect to a particular Service on the Schedules hereto or in the other Ancillary Agreements) payable by Service Provider or its Subsidiaries to a Third Party to the extent resulting from the early termination of such Service.

"Third Party" shall mean any Person other than the Parties or any of their respective Affiliates.

"Third-Party Claim" shall mean any Action commenced by any Third Party against any Party or any of its Affiliates.

"Visit CDA" means the confidential disclosure agreement attached hereto as Schedule C.

ARTICLE II
SERVICES

Section 2.01. Services.

(a) Commencing as of the Effective Time, Service Provider agrees to provide, or to cause one or more of its Subsidiaries to provide, to Service Recipient, or any Subsidiary of Service Recipient, the applicable services (the "Services") set forth on the Schedules hereto.

(b) If, after the date of this Agreement, Service Recipient identifies a service (other than an Excluded Service) that Service Provider provided to Service Recipient within twelve (12) months prior to the Distribution Date that Service Recipient reasonably needs in order for the SpinCo Business or the Parent Business, as applicable, to continue to operate in substantially the same manner in which the SpinCo Business or the Parent Business, as applicable, operated prior to the Distribution Date, and such service was not included on the Schedules hereto (other than because the Parties agreed such service shall not be provided), and Service Recipient provides written notice to Service Provider within ninety (90) days after the Distribution Date requesting such additional services, then Service Provider shall use its commercially reasonable efforts to provide such requested additional services (such requested additional services, the "Additional Services"); provided, however, that Service Provider shall not be obligated to provide any Additional Service (A) if Service Provider does not, in its

reasonable judgment, have adequate resources to provide such Additional Service (taking into consideration any offer by Service Recipient to pay for such additional resources, subject to the limitations set forth in Section 2.09), (B) if the provision of such Additional Service would significantly disrupt the operation of Service Provider's or its Subsidiaries' businesses, (C) if the Parties are unable to reach agreement on the terms thereof (including with respect to Service Charges therefor), or (D) if Service Recipient is reasonably in a position to provide such Additional Services to itself or obtain such Additional Services from a Third Party on the same time frame as such services would be available from Service Provider. In connection with any request for Additional Services in accordance with this Section 2.01(b), the Parties shall in good faith negotiate the terms of a supplement to the applicable Schedule, which terms shall be consistent with the terms of, and the pricing methodology used for, similar Services provided under this Agreement. Upon the mutual written agreement of the Parties, the supplement to the applicable Schedule shall describe in reasonable detail the nature, scope, Service Period(s), termination provisions and other terms applicable to such Additional Services in a manner similar to that in which the Services are described in the existing Schedules. Each supplement to the applicable Schedule, as agreed to in writing by the Parties, shall be deemed part of this Agreement as of the date of such agreement and the Additional Services set forth therein shall be deemed "Services" provided under this Agreement, in each case subject to the terms and conditions of this Agreement.

Section 2.02. Performance of Services.

(a) Subject to Section 2.05, Service Provider shall perform, or shall cause one or more of its Affiliates to perform, all Services to be provided in a manner that is based on its past practice and that is substantially similar in nature, quality and timeliness to analogous services provided by Service Provider prior to the Effective Time.

(b) Nothing in this Agreement shall require Service Provider to perform or cause to be performed any Service to the extent that the manner of such performance would constitute a violation of any applicable Law or any existing contract or agreement with a Third Party. If Service Provider is or becomes aware of the potential for any such violation, Service Provider shall promptly advise Service Recipient of such potential violation, and the Parties will mutually seek an alternative that addresses such potential violation. The Parties agree to cooperate in good faith and use commercially reasonable efforts to obtain any necessary Third Party consents or sublicenses required under any existing contract or agreement with a Third Party to allow Service Provider to perform, or cause to be performed, all Services to be provided hereunder in accordance with the standards set forth in this Section 2.02. Service Recipient shall reimburse Service Provider for all reasonable out-of-pocket costs and expenses (if any) incurred by Service Provider or any of its Subsidiaries in connection with obtaining any such Third Party consent that is required to allow Service Provider to perform or cause to be performed such Services. If, with respect to a Service, the Parties, despite the use of such commercially reasonable efforts, are unable to obtain a required Third Party consent, or the performance of such Service by Service Provider would constitute a violation of any applicable Law, Service Provider shall have no obligation whatsoever to perform or cause to be performed such Service.

(c) Unless otherwise provided with respect to a specific Service on the Schedules hereto, Service Provider shall not be obligated to perform or to cause to be performed any Service in a manner that is materially more burdensome (with respect to service quality or quantity) than analogous services provided to BD or its applicable functional group or Subsidiary (collectively referred to as the "Level of Service") during the one year period ending on the last day of Service Provider's last fiscal quarter completed on or prior to the date of the Distribution (the "Service Baseline Period").

(d) (i) Neither Service Provider nor any of its Subsidiaries shall be required to perform or to cause to be performed any of the Services for the benefit of any Third Party or any other Person other than Service Recipient and its Subsidiaries, and (ii) EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION 2.02, EACH PARTY ACKNOWLEDGES AND AGREES THAT ALL SERVICES ARE PROVIDED ON AN "AS-IS" BASIS, THAT SERVICE RECIPIENT ASSUMES ALL RISK AND LIABILITY ARISING FROM OR RELATING TO ITS USE OF AND RELIANCE UPON THE SERVICES, AND THAT SERVICE PROVIDER MAKES NO OTHER REPRESENTATIONS OR GRANTS ANY WARRANTIES, EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, BY STATUTE OR OTHERWISE, WITH RESPECT TO THE SERVICES. SERVICE PROVIDER SPECIFICALLY DISCLAIMS ANY OTHER WARRANTIES, WHETHER WRITTEN OR ORAL, OR EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF QUALITY, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR USE OR PURPOSE OR THE NON-INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES.

(e) Each Party shall be responsible for its own compliance with any and all Laws applicable to its performance under this Agreement. No Party shall knowingly take any action in violation of any such applicable Law that results in Liability being imposed on the other Party.

Section 2.03. Charges for Services. Unless otherwise provided with respect to a specific Service on the Schedules hereto, Service Recipient shall pay Service Provider a fee (either one-time or recurring) for such Services (or category of Services, as applicable) (each fee constituting a "Charge" and, collectively, "Charges"), which Charges shall be set forth on the applicable Schedules hereto. During the term of this Agreement, the amount of a Charge for any Service may be modified to the extent of (a) any adjustments mutually agreed to by the Parties, (b) any adjustments due to a change in Level of Service requested by Service Recipient and agreed upon by Service Provider, and (c) any adjustment in the rates or charges imposed by any Third Party provider that is providing Services; provided that Service Provider will notify Service Recipient in writing of any such change in rates at least thirty (30) days prior to the effective date of such rate change. Together with any invoice for Charges, Service Provider shall provide Service Recipient with reasonable documentation, including any additional documentation reasonably requested by Service Recipient to the extent that such documentation is in Service Provider's or its Subsidiaries' possession or control, to support the calculation of such Charges.

Section 2.04. Reimbursement for Out-of-Pocket Costs and Expenses. Service Recipient shall reimburse Service Provider for reasonable out-of-pocket costs and expenses incurred by Service Provider or any of its Subsidiaries in connection with providing the Services (including reasonable travel-related expenses) to the extent that such costs and expenses are not reflected in the Charges for such Services.

Section 2.05. Changes in the Performance of Services. Subject to the performance standards for Services set forth in Section 2.02(a), 2.02(b) and 2.02(c), Service Provider may make changes from time to time in the manner of performing the Services if Service Provider is making similar changes in performing analogous services for itself and if Service Provider furnishes to Service Recipient reasonable prior written notice (in content and timing) of such changes. If such change shall materially adversely affect the timeliness or quality of, or the Charges for, the applicable Service, Service Recipient shall be permitted to terminate the applicable specific Service pursuant to Section 5.02(a)(i) without being required to pay any Termination Charges pursuant to Section 5.05 for such Service.

Section 2.06. Transitional Nature of Services. The Parties acknowledge the transitional nature of the Services and that Service Recipient shall be responsible with respect to transitioning off of the provision of Services. Service Provider agrees to reasonably cooperate with Service Recipient, upon Service Recipient's written request, in the transition of the Services from Service Provider to Service Recipient (or its designee). Service Recipient agrees to use commercially reasonable efforts to reduce or eliminate its and its Affiliates' dependency on each Service to the extent and as soon as is reasonably practicable. Service Recipient shall transition responsibility for the performance of Services from Service Provider to Service Recipient in a manner that minimizes, to the extent reasonably possible, disruption to the Parent Business or the SpinCo Business, as applicable, and the continuing operations of Service Provider and its relevant Affiliates. Service Provider shall have no obligation to perform any Services following the Term. The Parties acknowledge and agree that time is of the essence with respect to the foregoing in this Section 2.06.

Section 2.07. Subcontracting. Service Provider may hire or engage one or more Third Parties to perform any or all of its obligations under this Agreement; provided, however, that Service Provider shall in all cases remain responsible (as primary obligor) for all of its obligations under this Agreement with respect to the scope of the Services, the performance standard for Services set forth in Section 2.02(a), 2.02(b) and 2.02(c) and the content of the Services provided to Service Recipient. Service Provider shall be liable for any breach of its obligations under this Agreement by any Third Party service provider engaged by Service Provider. Subject to the confidentiality provisions set forth in Article VI, Service Provider shall, and shall cause its Affiliates to, provide, upon fifteen (15) business days' prior written notice, any Information within Service Provider's or its Affiliates' control that Service Recipient reasonably requests in connection with any Services being provided to Service Recipient by a Third Party, including any applicable invoices, agreements documenting the arrangements between such Third Party and Service Provider and other supporting documentation; provided, further, however, that Service Recipient shall make no more than one such request per Third Party during any calendar quarter.

Section 2.08. Local Agreements. Each Party recognizes and agrees that it may be necessary or desirable to separately document certain matters relating to the Services provided hereunder in various jurisdictions from time to time or to otherwise modify the scope or nature of such Services, in each case to the extent necessary to comply with applicable Law. If such an agreement or modification of any of the Services is required by applicable Law, or if the applicable Parties mutually determine entry into such an agreement or modification of Services

would be desirable, in each case in order for Service Provider or its Subsidiaries to provide any of the Services in a particular jurisdiction, Service Provider and Service Recipient shall, or shall cause their applicable Subsidiaries to, to enter into local implementing agreements (as each may be amended and in effect from time to time, each a "Local Agreement") in form and content reasonably acceptable to the applicable Parties; provided that the execution or performance of any such Local Agreement shall in no way alter or modify any term or condition of this Agreement or the effect of any such term or condition, except to the extent expressly specified in such Local Agreement. Except as used in this Section 2.08, any references herein to this Agreement and the Services to be provided hereunder, shall include any Local Agreement and any local services to be provided thereunder. Except as expressly set forth in any Local Agreement, in the event of a conflict between the terms contained in a Local Agreement and the terms contained in this Agreement (including the applicable Schedules), the terms in this Agreement shall take precedence.

Section 2.09. Service Limitations. Notwithstanding any provision of this Agreement to the contrary:

(a) for purposes of this Agreement, except as and to the extent necessary for the receipt of any Services by Service Recipient or as otherwise set forth on a Schedule hereto and subject to Article III, Service Provider shall have no obligation to provide Service Recipient with access to or use of any Service Provider information technology systems, information technology, platforms, networks, applications, software databases or computer hardware;

(b) Service Provider shall not be obligated to provide and shall not be deemed to be providing any advisory services (including advice with respect to legal, financial, accounting, insurance, regulatory or tax matters) to Service Recipient or any of its Representatives as part of or in connection with the Services or otherwise;

(c) Service Provider shall have no obligation to prepare or deliver any notification or report to any Governmental Authority or other Person on behalf of Service Recipient or any of its Representatives except as set forth on the Schedules hereto; provided that Service Provider shall not deliver any such notification or report without Service Recipient's prior written consent;

(d) in no event shall Service Provider or its Affiliates have any obligation to favor Service Recipient or any of its Affiliates' operation of its businesses over its own business operations or those of its Affiliates;

(e) Service Provider shall not be required to hire any additional employees, maintain the employment of any one or more specific employees, or purchase, lease or license any additional equipment, software (including additional seats or instances under existing software license agreements) or other resources; and

(f) Service Provider shall not be required to bear or pay any costs related to the conversion of the Service Recipient's data at Service Recipient's request (other than any costs mutually agreed by Service Provider and Service Recipient, it being understood that, in agreeing to any such costs, the Parties shall take into account the time, effort and complexity of any action of Service Provider).

Section 2.10. System Shut Down. Service Provider shall have the right to shut down temporarily for maintenance or similar purposes the operation of any facilities or systems providing any Service whenever in Service Provider's reasonable judgment such action is necessary or advisable for general maintenance or emergency purposes; provided that without limiting the immediately following sentence, Service Provider will schedule non-emergency general maintenance impacting the Services so as not to materially disrupt the operation of the SpinCo Business or the Parent Business, as applicable, by Service Recipient. Service Provider will use commercially reasonable efforts to provide Service Recipient advance notice of any shut down for general maintenance purposes or other planned shut down.

Section 2.11. Use of Services. Service Provider shall not be required to provide Services to any Person other than Service Recipient and its Subsidiaries. Service Recipient shall not, and shall not permit its or any of its Subsidiaries' Representatives to, resell any Services to any Third Party or permit the use of any Services by any Third Party.

ARTICLE III
OTHER ARRANGEMENTS

Section 3.01. Access.

(a) Upon reasonable advance notice, SpinCo shall, and shall cause its Subsidiaries to, allow Parent and its Subsidiaries and their respective Representatives reasonable access during normal business hours to the facilities, Information, systems, infrastructure and personnel of SpinCo and its Subsidiaries as reasonably necessary for Parent and its Subsidiaries to fulfill their obligations under this Agreement and, as applicable, to verify the accuracy of internal controls over information technology, reporting of financial data and related processes employed in connection with verifying compliance with Section 404 of the Sarbanes-Oxley Act of 2002; provided that (i) such access shall not unreasonably interfere with any of the business or operations of SpinCo or any of its Subsidiaries, (ii) in the event that SpinCo determines that providing such access could violate any applicable Law or agreement or waive any attorney-client privilege, then the Parties shall use commercially reasonable efforts to permit such access in a manner that avoids any such consequence and (iii) no such access shall be permitted unless and until the Visit CDA shall have been executed by Parent and delivered to SpinCo. Parent agrees that all of its and its Subsidiaries' employees shall, and that it shall use commercially reasonable efforts to cause its Representatives' employees to, when on the property of SpinCo or its Subsidiaries, or when given access to any facilities, Information, systems, infrastructure or personnel of SpinCo or its Subsidiaries, conform to the policies and procedures of SpinCo and its Subsidiaries, as applicable, concerning health, safety, conduct and security which are made known or provided to Parent from time to time.

(b) Upon reasonable advance notice, Parent shall, and shall cause its Subsidiaries to, allow SpinCo and its Subsidiaries and their respective Representatives reasonable access during normal business hours to the facilities, Information, systems, infrastructure and personnel of Parent and its Subsidiaries as reasonably necessary for SpinCo to verify the adequacy of internal controls over information technology, reporting of financial data and related processes employed in connection with the Services being provided, including in connection with verifying compliance with Section 404 of the Sarbanes-Oxley Act of 2002; provided that (i) such access shall not unreasonably interfere with any of the business or operations of Parent or any of its Subsidiaries, (ii) in the event that Parent determines that providing such access could violate any applicable Law or agreement or waive any attorney-client privilege, then the Parties shall use commercially reasonable efforts to permit such access in a manner that avoids any such consequence and (iii) no such access shall be permitted unless and until the Visit CDA shall have been executed by SpinCo and delivered to Parent. SpinCo agrees that all of its and its Subsidiaries' employees shall, and that it shall use commercially reasonable efforts to cause its Representatives' employees to, when on the property of Parent or its Subsidiaries, or when given access to any facilities, Information, systems, infrastructure or personnel of Parent or its Subsidiaries, conform to the policies and procedures of Parent and its Subsidiaries, as applicable, concerning health, safety, conduct and security which are made known or provided to SpinCo from time to time.

(c) Subject to the terms and conditions of this Agreement, including the Connection Agreement during the term of this Agreement, Service Provider will permit Service Recipient and authorized Service Recipient Individual Users to access the Host Systems and the Applications (on or through the Host Systems), in each case, for the sole purpose of receiving, and solely to the extent necessary to receive, the Services as expressly contemplated by the Services themselves and in accordance with the terms and conditions expressly stated in this Agreement. Service Recipient Individual Users are authorized to access the Applications and the Host Systems with the prior permission of Service Provider and subject to the terms and conditions of this Agreement, including the foregoing sentence, and the Connection Agreement, and only to the extent that such authorized Service Recipient Individual Users have a need to access the Host Systems or use the Applications in order for the Service Recipient to receive the Services.

(d) Service Recipient shall not, and shall cause each of its Representatives and Service Recipient Individual Users not to, introduce or otherwise expose any Host System or any Application to any (a) computer code or instructions (e.g., malicious code or viruses) that may disrupt, damage, or interfere with the Host System or any Application or other software or firmware stored or operated thereon, (b) device that is capable of automatically or remotely stopping any Host System or Application from operating, in whole or in part (e.g., passwords, fuses or time bombs), (c) "back doors" or "trap doors" which allow for any access or bypassing of any security feature of the Host System or any Application or (d) any barriers designed for, or having the effect of, preventing Service Provider from accessing all or any portion of its systems, software or data. This Section 3.01(d) shall apply to Service Provider *mutatis mutandis* with respect to information and technology systems and platforms of Service Recipient if and to the extent accessed by Service Provider to provide Services hereunder.

(e) Service Recipient shall, at its sole expense (a) provide all network connectivity necessary for each of its Representatives and each Service Recipient Individual User to connect to the Host Systems (other than the connectivity that Service Provider shall provide as set forth on the Schedules hereto) and (b) comply, and cause each of its Representatives and each Service Recipient Individual User to comply, with the terms and

conditions set forth in the Service Provider Information Security Policy and Connection Agreement and in Sections 3.01(c), 3.01(d) and 3.01(e). This Section 3.01(e) shall apply to Service Provider *mutatis mutandis* with respect to information and technology systems and platforms of Service Recipient if and to the extent accessed by Service Provider to provide Services hereunder.

ARTICLE IV
BILLING; TAXES

Section 4.01. Procedure. Charges for the Services shall be charged to and payable by Service Recipient. Amounts payable pursuant to this Agreement shall be paid by wire transfer or Automated Clearing House payment (or such other method of payment as may be agreed between the Parties from time to time) to Service Provider (as directed by Service Provider), which amounts shall be due (a) in the case of recurring fees, on a monthly basis on or prior to the first day of the calendar month for which the applicable Service is to be provided, and (b) in the case of all other amounts, within thirty (30) days of Service Recipient's receipt of each invoice for Charges, including reasonable documentation pursuant to Section 2.03. All amounts due and payable hereunder shall be paid in U.S. dollars. In the event of any billing dispute, Service Recipient shall promptly pay any undisputed amount.

Section 4.02. Late Payments. Charges not paid when due pursuant to this Agreement and which are not disputed in good faith (and any amounts billed or otherwise invoiced or demanded and properly payable that are not paid within ten (10) days of the receipt of a notice of non-payment from Service Provider) shall accrue interest at a rate per annum equal to eight percent (8%) (the "Interest Payment"). Failure to pay such Charges due hereunder within ten (10) days from receipt of a non-payment notice from Service Provider pursuant to the terms of this Agreement shall constitute Service Recipient's failure to perform a material obligation under Section 5.02(b) and Service Provider may terminate this Agreement with respect to the applicable Service for which such payment failure applies under Section 5.02(b) (after the applicable cure period set forth therein).

Section 4.03. Taxes. Without limiting any provisions of this Agreement, Service Recipient shall bear any and all Taxes and other similar charges (and any related interest and penalties) imposed on, or payable with respect to, any fees or charges, including any Charges, payable by it pursuant to this Agreement, including all sales, use, value-added, and similar Taxes, but excluding any Taxes on Service Provider's income. Notwithstanding anything to the contrary in the previous sentence or elsewhere in this Agreement, Service Recipient shall be entitled to withhold from any payments to Service Provider any such Taxes that Service Recipient is required by applicable Law to withhold and shall pay such Taxes to the applicable Taxing Authority.

Section 4.04. No Set-Off. Except as mutually agreed to in writing by Service Provider and Service Recipient, neither Service Recipient nor any of its Affiliates shall have any right of set-off or other similar rights with respect to any amounts owed to Service Provider or any of its Subsidiaries pursuant to this Agreement on account of any obligation owed by Service Provider or any of its Subsidiaries to Service Recipient or any of its Subsidiaries.

ARTICLE V
TERM AND TERMINATION

Section 5.01. Term. This Agreement shall commence at the Effective Time and shall terminate upon the earliest to occur of (a) the last date on which Service Provider is obligated to provide any Service to Service Recipient in accordance with the terms of this Agreement; (b) the mutual written agreement of the Parties to terminate this Agreement in its entirety; and (c) the two (2) year anniversary of the Distribution Date (the "Term"). Unless otherwise terminated pursuant to Section 5.02, this Agreement shall terminate with respect to each Service as of the close of business on the last day of the Service Period for such Service.

Section 5.02. Early Termination.

(a) Without prejudice to Service Recipient's rights with respect to Force Majeure, Service Recipient may from time to time terminate this Agreement with respect to the entirety of any Service (Service Recipient may terminate any Service set forth on any part of the Schedules hereto without terminating all or any other Services set forth on the same Schedule as such terminated Service; provided, however, that Service Recipient must terminate the entirety of any Service, and not just a portion thereof):

(i) for any reason or no reason, upon the giving of at least forty-five (45) days' prior written notice (or such other number of days specified in the Schedules hereto) to Service Provider, unless prohibited by the applicable Schedule hereto); provided, however, that any such termination (x) may not be effective prior to the end of the Minimum Service Period, (y) may only be effective as of the last day of a month and (z) shall be subject to the obligation to pay any applicable Termination Charges pursuant to Section 5.05; or

(ii) if Service Provider has failed to perform any of its material obligations under this Agreement with respect to such Service, and such failure to perform materially and adversely affects the provision of such Service or Service Recipient or an Affiliate thereof or the SpinCo Business or the Parent Business, as applicable, and such failure shall continue to be uncured by Service Provider for a period of at least ninety (90) days after receipt by Service Provider of written notice of such failure from Service Recipient; provided, however, that Service Recipient shall not be entitled to terminate this Agreement with respect to the applicable Service if, as of the end of such period, there remains a good-faith Dispute between the Parties (undertaken in accordance with the terms of Section 8.16) as to whether Service Provider has cured the applicable breach.

(b) Service Provider may terminate this Agreement with respect to the entirety or portion of any Service at any time upon prior written notice to Service Recipient if Service Recipient has failed to perform any of its material obligations under this Agreement with respect to such Service, including making payment of Charges which are not disputed in good faith for such Service when due, and such failure shall continue to be uncured by Service Recipient for a period of at least ninety (90) days (or thirty (30) days in the event of a failure to make payment

of Charges which are not disputed in good faith for such Service when due) after receipt by Service Recipient of a written notice of such failure from Service Provider; provided, however, that Service Provider shall not be entitled to terminate this Agreement with respect to the applicable Service if, as of the end of such period, there remains a good-faith Dispute between the Parties (undertaken in accordance with the terms of Section 8.16) as to whether Service Recipient has cured the applicable breach.

(c) The Schedules hereto shall be updated to reflect any terminated Service.

Section 5.03. Extension of Services. Service Recipient may request, by providing Service Provider with advance written notice, to extend the Service Period of any Service so that such Service ends on the earlier of (a) ninety (90) days following the last date on which Service Provider is obligated to provide such Service in accordance with the terms of this Agreement and (b) the Term (each such extension, a "Service Extension"). Service Provider, in its sole discretion, shall determine whether to extend such Service for the requested Service Extension period. If Service Provider agrees to provide such Service during the requested Service Extension period, then (i) the Parties shall in good faith negotiate the terms of an amendment to the Schedules hereto, which amendment shall be consistent with the terms of the applicable Service; and (ii) the Charge for such Service during the Service Extension period shall be equal to one hundred twenty-five percent (125%) of the Charge for such Service; provided that, if such Service Extension is the result of Service Provider's failure to provide the Service during the applicable Service Period (the amount of time that the Service Provider so failed to provide such Service, the "Service Suspension Period"), then the Charge for such Service during the Service Extension period shall be equal to (x) one hundred percent (100%) of the Charge for such Service, for a number of days equal to the Service Suspension Period and (y) one hundred twenty-five percent (125%) of the Charge for such Service, for the remaining days of the Service Extension period, if any. Notwithstanding the foregoing, the Service Period of any particular Service may not be extended more than once. Each amendment of the Schedules hereto, as agreed to in writing by the Parties, shall be deemed part of this Agreement as of the date of such agreement and any Services provided pursuant to such Service Extensions shall be deemed "Services" provided under this Agreement, in each case subject to the terms and conditions of this Agreement.

Section 5.04. Interdependencies. The Parties acknowledge and agree that (a) there may be interdependencies among the Services being provided under this Agreement; (b) upon the request of either Party, the Parties shall cooperate and act in good faith to determine whether (i) any such interdependencies exist with respect to the particular Service that Service Recipient is seeking to terminate pursuant to Section 5.02 and (ii) in the case of such termination, Service Provider's ability to provide a particular Service in accordance with this Agreement would be materially and adversely affected by such termination of another Service; and (c) in the event that the Parties have determined that such interdependencies exist and such termination would materially and adversely affect Service Provider's ability to provide a particular Service in accordance with this Agreement, the Parties shall (i) negotiate in good faith to amend the Schedules hereto with respect to such impacted Service prior to such termination, which amendment shall be consistent with the terms of comparable Services, and (ii) if after such negotiation, the Parties are unable to agree on such amendment, Service Provider's obligation to provide such Service shall terminate automatically with such termination.

Section 5.05. Effect of Termination. Upon the termination of any Service pursuant to this Agreement, Service Provider shall have no further obligation to provide the terminated Service, and Service Recipient shall have no obligation to pay any future Charges relating to such Service; provided, however, that Service Recipient shall remain obligated to Service Provider for (a) the Charges owed and payable in respect of Services provided prior to the effective date of termination for such Service, and (b) any applicable Termination Charges (which, in the case of clause (b), shall not be payable in the event that Service Recipient terminates any Service pursuant to Section 5.02(a)(ii) or Section 2.05). In connection with the termination of any Service, the provisions of this Agreement not relating solely to such terminated Service shall survive any such termination, and in connection with a termination of this Agreement, Article I, this Article V, Article VII and Article VIII, and Liability for all due and unpaid Charges and Termination Charges shall continue to survive indefinitely.

Section 5.06. Information Transmission. Service Provider, on behalf of itself and its Subsidiaries, shall use commercially reasonable efforts to provide or make available, or cause to be provided or made available, to Service Recipient, in accordance with Section 6.1 of the Separation and Distribution Agreement, any Information received or computed by Service Provider for the benefit of Service Recipient concerning the relevant Service during the Service Period; provided, however, that, except as otherwise agreed to in writing by the Parties (a) Service Provider shall not have any obligation to provide, or cause to be provided, Information in any non-standard format, (b) Service Provider and its Subsidiaries shall be reimbursed for their reasonable costs in accordance with Section 6.3 of the Separation and Distribution Agreement for creating, gathering, copying, transporting and otherwise providing such Information, and (c) Service Provider shall use commercially reasonable efforts to maintain any such Information in accordance with Section 6.4 of the Separation and Distribution Agreement.

ARTICLE VI
CONFIDENTIALITY; PROTECTIVE ARRANGEMENTS

Section 6.01. Parent and SpinCo Obligations. Subject to Section 6.04, until the six (6)-year anniversary of the date of the termination of this Agreement in its entirety, each of Parent and SpinCo, on behalf of itself and each of its Subsidiaries, agrees to hold, and to cause its respective Representatives to hold, in strict confidence, with at least the same degree of care that applies to Parent's Confidential Information pursuant to policies in effect as of the Effective Time, all Confidential Information concerning the other Party or its Subsidiaries or their respective businesses that is either in its possession (including Confidential Information in its possession prior to the date hereof) or furnished by such other Party or such other Party's Subsidiaries or their respective Representatives at any time pursuant to this Agreement, and shall not use any such Confidential Information other than for such purposes as may be expressly permitted hereunder, except, in each case, to the extent that such Confidential Information (a) is in the public domain or is generally available to the public, other than as a result of a disclosure by such Party or any of its Subsidiaries or any of their respective Representatives in violation of this Agreement; (b) is lawfully acquired from other sources by such Party or any of its Subsidiaries, which sources are not themselves known by such Party or any of its Subsidiaries to

be bound by a confidentiality obligation or other contractual, legal or fiduciary obligation of confidentiality with respect to such Confidential Information; (c) is independently developed or generated without reference to or use of the Confidential Information of the other Party or any of its Subsidiaries; or (d) was in such Party's or its Subsidiaries' possession on a non-confidential basis prior to the time of disclosure to such Party and at the time of such disclosure was not known by such Party or any of its Subsidiaries to be prohibited from being disclosed by a confidentiality obligation or other contractual, legal or fiduciary obligation of confidentiality with respect to such Confidential Information. If any Confidential Information of a Party or any of its Subsidiaries is disclosed to the other Party or any of its Subsidiaries in connection with providing the Services, then such disclosed Confidential Information shall be used only as required to perform such Services.

Section 6.02. No Release; Return or Destruction. Each Party agrees (a) not to release or disclose, or permit to be released or disclosed, any Confidential Information of the other Party addressed in Section 6.01 to any other Person, except its Representatives who need to know such Confidential Information in their capacities as such (who shall be advised of their obligations hereunder with respect to such Confidential Information) and except in compliance with Section 6.04, and (b) to use commercially reasonable efforts to maintain such Confidential Information in accordance with Section 6.4 of the Separation and Distribution Agreement. Without limiting the foregoing, when any such Confidential Information is no longer needed for the purposes contemplated by the Separation and Distribution Agreement, this Agreement or any other Ancillary Agreements, each Party will promptly after request of the other Party either return to the other Party all such Confidential Information in a tangible form (including all copies thereof and all notes, extracts or summaries based thereon) or notify the other Party in writing that it has destroyed such information (and such copies thereof and such notes, extracts or summaries based thereon); provided that the Parties may retain electronic back-up versions of such Confidential Information maintained on routine computer system backup tapes, disks or other backup storage devices; and provided, further, that any such retained back-up information shall remain subject to the confidentiality provisions of this Agreement.

Section 6.03. Privacy and Data Protection Laws. Each Party shall comply with all applicable state, federal and foreign privacy and data protection Laws that are or that may in the future be applicable to the provision of the Services under this Agreement, as detailed in Schedule D attached hereto.

Section 6.04. Protective Arrangements. In the event that a Party or any of its Subsidiaries either determines on the advice of its counsel that it is required to disclose any information pursuant to applicable Law or receives any request or demand under lawful process or from any Governmental Authority to disclose or provide information of the other Party (or any of its Subsidiaries) that is subject to the confidentiality provisions hereof, such Party shall notify the other Party (to the extent legally permitted) as promptly as practicable under the circumstances prior to disclosing or providing such information and shall cooperate, at the expense of the other Party, in seeking any appropriate protective order requested by the other Party. In the event that such other Party fails to receive such appropriate protective order in a timely manner and the Party receiving the request or demand reasonably determines that its failure to disclose or provide such information shall actually prejudice the Party receiving the request or demand, then the Party that received such request or demand may thereafter disclose or provide information to the extent required by such Law (as so advised by its counsel) or by

lawful process or such Governmental Authority and will exercise reasonable efforts to obtain assurance that confidential treatment will be accorded to such Confidential Information, and the disclosing Party shall promptly provide the other Party with a copy of the information so disclosed, in the same form and format so disclosed, together with a list of all Persons to whom such information was disclosed, in each case to the extent legally permitted. The obligations in this Article VI shall survive any expiration or termination of this Agreement for six (6) years after the date of expiration or termination of this Agreement; provided, however, that, with respect to each trade secret of a Party or its Affiliates, such obligations shall continue as long as such trade secret remains otherwise protectable as a trade secret.

ARTICLE VII
LIMITED LIABILITY AND INDEMNIFICATION

Section 7.01. Limitations on Liability.

(a) SUBJECT TO SECTION 7.02, THE LIABILITIES OF SERVICE PROVIDER AND ITS SUBSIDIARIES AND THEIR RESPECTIVE REPRESENTATIVES, COLLECTIVELY, UNDER THIS AGREEMENT FOR ANY ACT OR FAILURE TO ACT IN CONNECTION HEREWITH (INCLUDING THE PERFORMANCE OR BREACH OF THIS AGREEMENT), OR FROM THE SALE, DELIVERY, PROVISION OR USE OF ANY SERVICES PROVIDED UNDER OR CONTEMPLATED BY THIS AGREEMENT, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY) OR OTHERWISE, SHALL NOT EXCEED THE AGGREGATE CHARGES PAID OR PAYABLE TO SUCH SERVICE PROVIDER BY SERVICE RECIPIENT UNDER THIS AGREEMENT OVER THE PREVIOUS TWELVE MONTHS OR SINCE THE DATE OF THIS AGREEMENT (IF PRIOR TO THE FIRST ANNIVERSARY OF THIS AGREEMENT) WITH RESPECT TO THE SERVICES GIVING RISE TO SUCH LIABILITY.

(b) IN NO EVENT SHALL EITHER PARTY, ITS SUBSIDIARIES OR THEIR RESPECTIVE REPRESENTATIVES BE LIABLE TO THE OTHER PARTY FOR ANY LOST PROFITS, SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, EXEMPLARY, REMOTE, SPECULATIVE OR SIMILAR DAMAGES IN EXCESS OF COMPENSATORY DAMAGES OF THE OTHER PARTY IN CONNECTION WITH THE PERFORMANCE OF THIS AGREEMENT REGARDLESS OF WHETHER SUCH PARTY HAS BEEN NOTIFIED OF THE POSSIBILITY OF, OR THE FORESEEABILITY OF, SUCH DAMAGES (OTHER THAN ANY SUCH LIABILITY WITH RESPECT TO A THIRD-PARTY CLAIM), AND EACH PARTY HEREBY WAIVES ON BEHALF OF ITSELF, ITS SUBSIDIARIES AND ITS REPRESENTATIVES ANY CLAIM FOR SUCH DAMAGES, WHETHER ARISING IN CONTRACT, TORT OR OTHERWISE.

(c) The limitations in Section 7.01(a) and Section 7.01(b) shall not apply in respect of any Liability arising out of or in connection with (i) either Party's Liability for breaches of confidentiality under Article VI or (ii) the Parties' respective obligations under Section 7.03.

Section 7.02. Obligation to Re-Perform; Liabilities. In the event of any breach of this Agreement by Service Provider with respect to the provision of any Services (with respect to which Service Provider can reasonably be expected to re-perform in a commercially reasonable manner), Service Provider shall, at the request of Service Recipient, promptly correct in all material respects such error, defect or breach or re-perform in all material respects such Services at the sole cost and expense of Service Provider. The remedy set forth in this Section 7.02 shall be the sole and exclusive remedy of Service Recipient for any such breach of this Agreement; provided, however, that the foregoing shall not prohibit Service Recipient from exercising its right to terminate this Agreement in accordance with the provisions of Section 5.02(a)(ii) or seeking specific performance in accordance with Section 8.17. Any request for re-performance in accordance with this Section 7.02 by Service Recipient must be in writing and specify in reasonable detail the particular error, defect or breach, and such request must be made no more than one month from the later of (x) the date on which such breach occurred and (y) the date on which such breach was reasonably discovered by Service Recipient.

Section 7.03. Third-Party Claims. In addition to (but not in duplication of) its other indemnification obligations (if any) under the Separation and Distribution Agreement, this Agreement or any other Ancillary Agreement, Service Recipient shall indemnify, defend and hold harmless Service Provider, its Subsidiaries and each of their respective Representatives, and each of the successors and assigns of any of the foregoing (collectively, the "Service Provider Indemnitees"), from and against any and all claims of Third Parties relating to, arising out of or resulting from Service Recipient's use or receipt of the Services provided by Service Provider hereunder, other than Third-Party Claims arising out of the gross negligence, willful misconduct or fraud of any Service Provider Indemnitee.

Section 7.04. Indemnification Procedures. The procedures for indemnification set forth in Article IV of the Separation and Distribution Agreement shall govern claims for indemnification under this Agreement.

ARTICLE VIII
MISCELLANEOUS

Section 8.01. Mutual Cooperation. Each Party shall, and shall cause its Subsidiaries to, cooperate with the other Party and its Subsidiaries in connection with the performance of the Services hereunder; provided, however, that such cooperation shall not unreasonably disrupt the normal operations of such Party or its Subsidiaries; and, provided, further, that this Section 8.01 shall not require such Party to incur any out-of-pocket costs or expenses unless and except as expressly provided in this Agreement or otherwise agreed to in writing by the Parties.

Section 8.02. Further Assurances. Subject to the terms of this Agreement, each Party shall take, or cause to be taken, any and all reasonable actions, including the execution, acknowledgment, filing and delivery of any and all documents and instruments that any other Party may reasonably request in order to effect the intent and purpose of this Agreement and the transactions contemplated hereby.

Section 8.03. Audit Assistance. Each of the Parties and their respective Subsidiaries are or may be subject to regulation and audit by a Governmental Authority (including a Taxing Authority), standards organizations, customers or other parties to contracts with such Parties or their respective Subsidiaries under applicable Law, standards or contract provisions. If a

Governmental Authority, standards organization, customer or other party to a contract with a Party or its Subsidiary exercises its right to examine or audit such Party's or its Subsidiary's books, records, documents or accounting practices and procedures pursuant to such applicable Law, standards or contract provisions, and such examination or audit relates to the Services, then the other Party shall provide, at the sole cost and expense of the requesting Party, all assistance reasonably requested by the Party that is subject to the examination or audit in responding to such examination or audits or requests for Information, to the extent that such assistance or Information is within the reasonable control of the cooperating Party and is related to the Services.

Section 8.04. Title to Intellectual Property. For purposes of this Agreement, Service Recipient acknowledges that it shall acquire no right, title or interest (including any license rights or rights of use) in any intellectual property which is owned or licensed by Service Provider, by reason of the provision of the Services hereunder. Service Recipient shall not remove or alter any copyright, trademark, confidentiality or other proprietary notices that appear on any intellectual property owned or licensed by Service Provider, and Service Recipient shall reproduce any such notices on any and all copies thereof. Service Recipient shall not attempt to decompile, translate, reverse engineer or make excessive copies of any intellectual property owned or licensed by Service Provider, and Service Recipient shall promptly notify Service Provider of any such attempt, regardless of whether by Service Recipient or any Third Party, of which Service Recipient becomes aware.

Section 8.05. Independent Contractors. The Parties each acknowledge and agree that they are separate entities, each of which has entered into this Agreement for independent business reasons. The relationships of the Parties hereunder are those of independent contractors and nothing contained herein shall be deemed to create a joint venture, partnership or any other relationship between the Parties. Employees performing Services hereunder do so on behalf of, under the direction of, and as employees of, Service Provider, and Service Recipient shall have no right, power or authority to direct such employees, unless otherwise specified with respect to a particular Service on the Schedules hereto.

Section 8.06. Counterparts; Entire Agreement; Corporate Power.

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

(b) This Agreement, the Separation and Distribution Agreement and the other Ancillary Agreements and the Exhibits, Schedules and appendices hereto and thereto contain the entire agreement between the Parties with respect to the subject matter hereof, supersede all previous agreements, negotiations, discussions, writings, understandings, commitments and conversations with respect to such subject matter, and there are no agreements or understandings between the Parties other than those set forth or referred to herein or therein. This Agreement, the Separation and Distribution Agreement, and the other Ancillary Agreements govern the arrangements in connection with the Separation and Distribution and would not have been entered into independently.

(c) Parent represents on behalf of itself and, to the extent applicable, each of its Subsidiaries, and SpinCo represents on behalf of itself and, to the extent applicable, each of its Subsidiaries, as follows:

(i) each such Person has the requisite corporate or other power and authority and has taken all corporate or other action necessary in order to execute, deliver and perform this Agreement and to consummate the transactions contemplated hereby; and

(ii) this Agreement has been duly executed and delivered by it and constitutes a valid and binding agreement of it and is enforceable in accordance with the terms hereof.

(d) Each Party acknowledges and agrees that delivery of an executed counterpart of a signature page to this Agreement (whether executed by manual, stamp or mechanical signature) by facsimile or by e-mail in portable document format (PDF) shall be effective as delivery of such executed counterpart of this Agreement. Each Party expressly adopts and confirms each such facsimile, stamp or mechanical signature (regardless of whether delivered in person, by mail, by courier, by facsimile or by e-mail in portable document format (PDF)) made in its respective name as if it were a manual signature delivered in person, agrees that it will not assert that any such signature or delivery is not adequate to bind such Party to the same extent as if it were signed manually and delivered in person and agrees that, at the reasonable request of the other Party at any time, it will as promptly as reasonably practicable cause this Agreement to be manually executed (any such execution to be as of the date of the initial date thereof) and delivered in person, by mail or by courier.

Section 8.07. Governing Law. This Agreement (and any claims or disputes arising out of or related hereto or to the transactions contemplated hereby or to the inducement of any Party to enter herein, whether for breach of contract, tortious conduct or otherwise and whether predicated on common law, statute or otherwise) shall be governed by and construed and interpreted in accordance with the Laws of the State of Delaware, irrespective of the choice of Laws principles of the State of Delaware, including all matters of validity, construction, effect, enforceability, performance and remedies.

Section 8.08. Assignability. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns; provided, however, that neither Party may assign its rights or delegate its obligations under this Agreement without the express prior written consent of the other Party. Notwithstanding the foregoing, Service Provider may assign this Agreement or all of its rights or obligations hereunder to any Affiliate without Service Recipient's prior written consent (but with notice to the Service Recipient) solely to the extent such Affiliate can continue to deliver the Services hereunder without interruption.

Section 8.09. Third-Party Beneficiaries. Except as provided in Article VII with respect to the Service Provider Indemnitees and the Service Recipient Indemnitees in their respective capacities as such, (a) the provisions of this Agreement are solely for the benefit of the Parties and are not intended to confer upon any other Person except the Parties any rights or remedies hereunder; and (b) there are no other third-party beneficiaries of this Agreement and this Agreement shall not provide any other Third Party with any remedy, claim, Liability, reimbursement, claim of action or other right in excess of those existing without reference to this Agreement.

Section 8.10. Notices. All notices, requests, claims, demands or other communications under this Agreement shall be in writing and shall be given or made (and except as provided herein shall be deemed to have been duly given or made upon receipt) by delivery in person, by overnight courier service, by certified mail, return receipt requested, or by electronic mail ("e-mail"), so long as confirmation of receipt of such e-mail is requested and received, to the respective Parties at the following addresses (or at such other address for a Party as shall be specified in a notice given in accordance with this Section 8.10):

If to Parent, to:

Becton, Dickinson and Company
1 Becton Drive
Franklin Lakes, New Jersey 07417
Attention: Joseph LaSala
Chief Counsel - Transactions/M&A
E-mail: joseph_lasala@bd.com

If to SpinCo, to:

Embecta Corp.
300 Kimball Drive
Parsippany, New Jersey 07054
Attention: Jeff Mann
Senior Vice President, General Counsel, Head of Corporate Development
and Corporate Secretary
E-mail: jeff.mann@bd.com; jeff.mann@embecta.com

Any Party may, by notice to the other Party, change the address to which such notices are to be given or made.

Section 8.11. Severability. If any provision of this Agreement or the application thereof to any Person or circumstance is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions hereof, or the application of such provision to Persons or circumstances or in jurisdictions other than those as to which it has been held invalid or unenforceable, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby. Upon such determination, the Parties shall negotiate in good faith in an effort to agree upon such a suitable and equitable provision to effect the original intent of the Parties.

Section 8.12. Force Majeure. No Party shall be deemed in default of this Agreement for any delay or failure to fulfill any obligation (other than a payment obligation) hereunder so long as and to the extent to which any delay or failure in the fulfillment of such obligation is prevented, frustrated, hindered or delayed as a consequence of circumstances of Force Majeure. Without limiting the termination rights contained in this Agreement, in the event of any such excused delay, the time for performance of such obligation (other than a payment obligation) shall be extended for a period equal to the time lost by reason of the delay. A Party claiming the benefit of this provision shall, as soon as reasonably practicable after the occurrence of any such event, (a) provide written notice to the other Party of the nature and extent of any such Force Majeure condition; and (b) use commercially reasonable efforts to remove any such causes and resume performance under this Agreement as soon as reasonably practicable (and in no event later than the date that the affected Party resumes analogous performance under any other agreement for itself, its Affiliates or any Third Party) unless this Agreement has previously been terminated under Article V or this Section 8.12.

Section 8.13. Headings. The Article, Section and Paragraph headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

Section 8.14. Survival of Covenants. Except as expressly set forth in this Agreement, the covenants, representations and warranties and other agreements contained in this Agreement, and Liability for the breach of any obligations contained herein, shall survive the Effective Time and shall remain in full force and effect thereafter.

Section 8.15. Waivers of Default. Waiver by any Party of any default by the other Party of any provision of this Agreement shall not be deemed a waiver by the waiving Party of any subsequent or other default, nor shall it prejudice the rights of the waiving Party. No failure or delay by any Party in exercising any right, power or privilege under this Agreement shall operate as a waiver thereof, nor shall a single or partial exercise thereof prejudice any other or further exercise thereof or the exercise of any other right, power or privilege.

Section 8.16. Dispute Resolution.

(a) In the event of any controversy, dispute or claim (a "Dispute") arising out of or relating to any Party's rights or obligations under this Agreement (whether arising in contract, tort or otherwise), calculation or allocation of the costs of any Service or otherwise arising out of or relating in any way to this Agreement (including the interpretation or validity of this Agreement), such Dispute shall be resolved in accordance with the dispute resolution process referred to in Article VII of the Separation and Distribution Agreement.

(b) In any Dispute regarding the amount of a Charge or a Termination Charge, if such Dispute is finally resolved pursuant to the dispute resolution process set forth or referred to in Section 8.16(a) and it is determined that the Charge or the Termination Charge, as applicable, that Service Provider has invoiced Service Recipient, and that Service Recipient has paid to Service Provider, is greater or less than the amount that the Charge or the Termination Charge, as applicable, should have been, then (i) if it is determined that Service Recipient has overpaid the Charge or the Termination Charge, as applicable, Service Provider shall within ten (10) calendar days after such determination reimburse Service Recipient an amount of cash equal to such overpayment, plus the Interest Payment, accruing from the date of payment by Service

Recipient to the time of reimbursement by Service Provider; and (ii) if it is determined that Service Recipient has underpaid the Charge or the Termination Charge, as applicable, Service Recipient shall within ten (10) calendar days after such determination reimburse Service Provider an amount of cash equal to such underpayment, plus the Interest Payment, accruing from the date such payment originally should have been made by Service Recipient to the time of payment by Service Recipient.

Section 8.17. Specific Performance. Subject to Section 8.16, in the event of any actual or threatened default in, or breach of, any of the terms, conditions and provisions of this Agreement, the Party or Parties who are, or are to be, thereby aggrieved shall have the right to specific performance and injunctive or other equitable relief in respect of its rights 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 the remedies at law for any breach or threatened breach, including monetary damages, are inadequate compensation for any loss and that any defense in any Action for specific performance that a remedy at law would be adequate is waived. Any requirements for the securing or posting of any bond with such remedy are hereby waived by each of the Parties. Unless otherwise agreed in writing, Service Provider shall continue to provide Services and the Parties shall honor all other commitments under this Agreement during the course of dispute resolution pursuant to the provisions of Section 8.16 and this Section 8.17 with respect to all matters not subject to such Dispute; provided, however, that this obligation shall only exist during the term of this Agreement.

Section 8.18. Amendments. No provisions of this Agreement shall be deemed waived, amended, supplemented or modified by a Party, unless such waiver, amendment, supplement or modification is in writing and signed by the authorized representative of the Party against whom enforcement of such waiver, amendment, supplement or modification is sought.

Section 8.19. Precedence of Schedules. Each Schedule attached to or referenced in this Agreement is hereby incorporated into and shall form a part of this Agreement; provided, however, that the terms contained in such Schedule shall only apply with respect to the Services provided under that Schedule. In the event of a conflict between the terms contained in an individual Schedule and the terms in the body of this Agreement, the terms in the Schedule shall take precedence with respect to the Services under such Schedule only. No terms contained in individual Schedules shall otherwise modify the terms of this Agreement.

Section 8.20. Interpretation. In this Agreement, (a) words in the singular shall be deemed to include the plural and vice versa and words of one gender shall be deemed to include the other genders as the context requires; (b) the terms “hereof,” “herein” and “herewith” and words of similar import shall, unless otherwise stated, be construed to refer to this Agreement as a whole (including all of the Schedules, Annexes and Exhibits hereto) and not to any particular provision of this Agreement; (c) Article, Section, Exhibit, Annex and Schedule references are to the Articles, Sections, Exhibits, Annexes and Schedules to this Agreement unless otherwise specified; (d) unless otherwise stated, all references to any agreement shall be deemed to include the exhibits, schedules and annexes to such agreement; (e) the word “including” and words of similar import when used in this Agreement shall mean “including, without limitation,” unless otherwise specified; (f) the word “or” shall not be exclusive; (g) the word “extent” in the phrase “to the extent” shall mean the degree to which a subject or other thing extends, and such phrase

shall not mean simply "if"; (h) unless otherwise specified in a particular case, the word "days" refers to calendar days; (i) references to "business day" shall mean any day other than a Saturday, a Sunday or a day on which banking institutions are generally authorized or required by Law to close in the United States or Franklin Lakes, New Jersey; (j) references herein to this Agreement or any other agreement contemplated herein shall be deemed to refer to this Agreement or such other agreement as of the date on which it is executed and as it may be amended, modified or supplemented thereafter, unless otherwise specified; and (k) unless expressly stated to the contrary in this Agreement, all references to "the date hereof," "the date of this Agreement," "hereby" and "hereupon" and words of similar import shall all be references to March 31, 2022.

Section 8.21. Mutual Drafting. This Agreement shall be deemed to be the joint work product of the Parties and any rule of construction that a document shall be interpreted or construed against a drafter of such document shall not be applicable to this Agreement.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the date first written above.

BECTON, DICKINSON AND COMPANY

By: /s/ Christopher J. DelOrefice
Name: Christopher J. DelOrefice
Title: Executive Vice President and Chief Financial Officer

EMBECTA CORP.

By: /s/ Jacob Elguicze
Name: Jacob Elguicze
Title: Chief Financial Officer

[Signature Page to Transition Services Agreement]

Exhibit 10.2

TAX MATTERS AGREEMENT

by and between

BECTON, DICKINSON AND COMPANY

and

EMBECTA CORP.

Dated as of March 31, 2022

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TAX MATTERS AGREEMENT

This TAX MATTERS AGREEMENT (this "Agreement"), is entered into as of March 31, 2022 by and between Becton, Dickinson and Company, a New Jersey corporation ("Parent"), and Embecta Corp., a Delaware corporation ("SpinCo," and together with Parent, the "Parties"). Capitalized terms used in this Agreement and not defined herein shall have the meanings ascribed to such terms in the Separation and Distribution Agreement, dated as of the date hereof, by and between the Parties (the "Separation Agreement").

R E C I T A L S

WHEREAS, the board of directors of Parent (the "Parent Board") has determined that it is in the best interests of Parent and its shareholders to create a new publicly traded company that shall operate the SpinCo Business;

WHEREAS, in furtherance of the foregoing, the Parent Board has determined that it is appropriate and desirable to separate the SpinCo Business from the Parent Business (the "Separation") and, following the Separation, make a distribution, on a pro rata basis, to holders of Parent Shares on the Record Date of all of the outstanding SpinCo Shares owned by Parent (the "Distribution");

WHEREAS, SpinCo has been incorporated solely for these purposes and has not engaged in activities except in connection with the Separation and the Distribution;

WHEREAS, Parent will effect certain restructuring transactions described in the Separation Plan for the purpose of aggregating the SpinCo Business in the SpinCo Group prior to the Distribution, and, in connection therewith, Parent will undertake the Contribution, in exchange for which SpinCo (i) shall issue to Parent SpinCo Shares, pay to Parent the SpinCo Contribution Payment, and assume certain liabilities related to the SpinCo Business, and (ii) may issue to Parent certain debt securities of SpinCo (the "SpinCo Securities");

WHEREAS, Parent will transfer any SpinCo Securities to Parent creditors in satisfaction of certain Parent debt (any such transfer, the "Debt Exchange") within 12 months after the Distribution;

WHEREAS, Parent intends to effect the Distribution in a transaction that, taken together with the Contribution and any Debt Exchange, is intended to qualify as tax-free for U.S. federal income tax purposes under Sections 368(a)(1)(D), 355, and 361 of the Code;

WHEREAS, certain members of the Parent Group, on the one hand, and certain members of the SpinCo Group, on the other hand, file certain Tax Returns on a consolidated, combined, or unitary basis for certain federal, state, local, and foreign Tax purposes; and

WHEREAS, the Parties desire to (i) provide for the payment of Tax liabilities and entitlement to refunds thereof, allocate responsibility for, and cooperation in, the filing of Tax Returns, and provide for certain other matters relating to Taxes, and (ii) set forth certain covenants and indemnities relating to the preservation of the Tax-Free Status of the Transactions.

NOW, THEREFORE, in consideration of 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, the Parties, intending to be legally bound, hereby agree as follows:

ARTICLE I

DEFINITIONS

1.1 General. As used in this Agreement (including the recitals hereof), the following terms shall have the following meanings:

"Active Trade or Business" means, with respect to SpinCo or any member of the SpinCo Group, the active conduct (as defined in Section 355(b)(2) of the Code and the Treasury Regulations thereunder) of the SpinCo Business as conducted by such entity immediately prior to the Distribution.

"Adjustment" shall mean an adjustment of any item of income, gain, loss, deduction, credit, or any other item affecting Taxes of a taxpayer pursuant to a Final Determination.

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

"Agreement" shall have the meaning set forth in the preamble hereto.

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

"Business Day" shall mean any day other than a Saturday, a Sunday or a day on which banking institutions are generally authorized or required by law to close in the United States or Franklin Lakes, New Jersey.

"Code" shall mean the Internal Revenue Code of 1986, as amended.

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

"Controlling Party" shall mean, with respect to a Tax Contest, the Party entitled to control such Tax Contest pursuant to Sections 6.2 and 6.3 of this Agreement.

"Debt Exchange" shall have the meaning set forth in the preamble hereto.

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

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

"Employee Matters Agreement" shall have the meaning set forth in the Separation Agreement.

"Employment Tax" shall mean those Liabilities (as defined in the Separation Agreement) for Taxes which are allocable pursuant to the provisions of the Employee Matters Agreement.

"Federal Income Tax" shall mean (i) any Tax imposed by Subtitle A of the Code other than an Employment Tax, and (ii) any interest, penalties, additions to tax, or additional amounts in respect of the foregoing.

"Fifty-Percent or Greater Interest" shall have the meaning ascribed to such term for purposes of Section 355(d) and (e) of the Code.

"Final Determination" shall mean the final resolution of liability for any Tax for any taxable period, by or as a result of (i) a final decision, judgment, decree, or other order by any court of competent jurisdiction that can no longer be appealed, (ii) a final settlement with the IRS, a closing agreement or accepted offer in compromise under Section 7121 or 7122 of the Code, or a comparable agreement under the Laws of a state, local, or foreign taxing jurisdiction, which resolves the entire Tax liability for any taxable period, (iii) any allowance of a refund or credit in respect of an overpayment of Tax, but only after the expiration of all periods during which such refund or credit may be recovered (including by way of withholding or offset) by the jurisdiction imposing the Tax, or (iv) any other final resolution, including by reason of the expiration of the applicable statute of limitations or the execution of a pre-filing agreement with the IRS or other Taxing Authority.

"Group" shall mean either the Parent Group or the SpinCo Group, as the context requires.

"Income Tax" means all Taxes based upon, measured by, or calculated with respect to (i) net income or profits (including any capital gains, minimum Tax or any Tax on items of tax preference, but not including sales, use, real or personal property, gross or net receipts, value added, excise, leasing, transfer or similar Taxes), or (ii) multiple bases (including corporate franchise, doing business and occupation Taxes) if one or more bases upon which such Tax is determined is described in clause (i) of this definition, together with any interest, penalty, additions to tax, or additional amounts in respect of the foregoing.

"Indemnifying Party" shall have the meaning set forth in Section 5.2.

"Indemnitee" shall have the meaning set forth in Section 5.2.

"Internal Distribution" shall mean any transaction (or series of transactions) effected as part of the Transactions (other than the Contribution and the Distribution) that is intended to qualify as a tax-free transaction under Section 355 and/or Section 368(a)(1)(D) of the Code, as described in the Tax Materials.

"IRS" shall mean the U.S. Internal Revenue Service or any successor agency, including, but not limited, to its agents, representatives, and attorneys.

"IRS Ruling" shall mean any U.S. federal income tax ruling issued to Parent by the IRS in connection with the Transactions.

"IRS Ruling Request" shall mean the letter filed by Parent with the IRS requesting a ruling regarding certain U.S. federal income tax consequences of the Transactions and any amendment or supplement to such ruling request letter.

"Joint Return" shall mean any Tax Return that includes, by election or otherwise, one or more members of the Parent Group together with one or more members of the SpinCo Group.

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

"Non-Controlling Party" shall mean, with respect to a Tax Contest, the Party that is not the Controlling Party with respect to such Tax Contest.

"Parent" shall have the meaning set forth in the preamble hereto.

"Parent Affiliated Group" shall mean the affiliated group (as that term is defined in Section 1504 of the Code and the Treasury Regulations thereunder) of which Parent is the common parent.

"Parent Business" shall have the meaning set forth in the Separation Agreement.

"Parent Federal Consolidated Income Tax Return" shall mean any U.S. Federal Income Tax Return for the Parent Affiliated Group.

"Parent Group" shall have the meaning set forth in the Separation Agreement.

"Parent Separate Return" shall mean any Tax Return of or including any member of the Parent Group (including any consolidated, combined, or unitary return) that does not include any member of the SpinCo Group.

"Parent Shares" shall have the meaning set forth in the Separation Agreement.

"Parties" shall have the meaning set forth in the preamble hereto.

"Past Practices" shall have the meaning set forth in Section 3.5.

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

"Post-Distribution Period" shall mean any taxable period (or portion thereof) beginning after the Distribution Date, including, for the avoidance of doubt, the portion of any Straddle Period beginning after the Distribution Date.

"Pre-Distribution Period" shall mean any taxable period (or portion thereof) ending on or before the Distribution Date, including, for the avoidance of doubt, the portion of any Straddle Period ending at the end of the day on the Distribution Date.

"Proposed Acquisition Transaction" shall mean 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 Treasury Regulations promulgated thereunder, to enter into a transaction or series of transactions), whether such transaction is supported by SpinCo management or shareholders, is a hostile acquisition, or otherwise, as a result of which SpinCo (or any successor thereto) would merge or consolidate with any other Person or as a result of which one or more Persons would (directly or indirectly) acquire, or have the right to acquire, from SpinCo (or any successor thereto) and/or one or more holders of SpinCo Capital Stock, respectively, any amount of SpinCo Capital Stock, that would, when combined with any other direct or indirect changes in ownership of SpinCo Capital Stock pertinent for purposes of Section 355(e) of the Code and the Treasury Regulations promulgated thereunder, comprise forty percent (40%) or more of (i) the value of all outstanding shares of stock of SpinCo as of immediately after such transaction, or in the case of a series of transactions, immediately after the last transaction of such series, or (ii) the total combined voting power of all outstanding shares of voting stock of SpinCo as of immediately after such transaction, or in the case of a series of transactions, immediately after the last transaction of such series. Notwithstanding the foregoing, a Proposed Acquisition Transaction shall not include (i) the adoption by SpinCo of a shareholder rights plan, or (ii) issuances by SpinCo 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 are intended to monitor compliance with Section 355(e) of the Code and the Treasury Regulations promulgated thereunder and shall be interpreted accordingly. Any clarification of, or change in, the statute or Treasury Regulations promulgated under Section 355(e) of the Code shall be incorporated in this definition and its interpretation.

"Reasonable Basis" shall mean a reasonable basis within the meaning of Section 6662(d)(2)(B)(ii)(II) of the Code and the Treasury Regulations promulgated thereunder (or such other level of confidence required by the Code at that time to avoid the imposition of penalties).

"Refund" shall mean any refund, reimbursement, offset, credit, or other similar benefit in respect of Taxes (including any overpayment of Taxes that can be refunded or, alternatively, applied against other Taxes payable), including any interest paid on or with respect to such refund of Taxes; provided, however, that the amount of any refund of Taxes shall be net of any Taxes imposed by any Taxing Authority on, related to, or attributable to, the receipt of or accrual of such refund, including any Taxes imposed by way of withholding or offset.

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

"Restricted Period" shall mean the period which begins with the Distribution Date and ends two (2) years thereafter.

"Separate Return" shall mean a Parent Separate Return or a SpinCo Separate Return, as the case may be.

"Separation" shall have the meaning set forth in the preamble hereto.

"Separation Agreement" shall have the meaning set forth in the preamble hereto.

"Separation Step Plan" shall mean have the meaning set forth in the Separation Agreement.

"SpinCo" shall have the meaning set forth in the preamble hereto.

"SpinCo Business" shall have the meaning set forth in the Separation Agreement.

"SpinCo Capital Stock" shall mean all classes or series of capital stock of SpinCo, including (i) SpinCo Shares, (ii) all options, warrants, and other rights to acquire such capital stock, and (iii) all other instruments properly treated as stock of SpinCo for U.S. federal income tax purposes.

"SpinCo Contribution Payment" shall have the meaning set forth in the Separation Agreement.

"SpinCo Disqualifying Action" shall mean (i) any action (or failure to take any action) by any member of the SpinCo Group after the Distribution (including entering into any agreement, understanding, arrangement, or negotiations with respect to any transaction or series of transactions), (ii) any event (or series of events) after the Distribution involving SpinCo Capital Stock or the assets of any member of the SpinCo Group, or (iii) any breach by any member of the SpinCo Group after the Distribution of any representation, warranty, or covenant made by them in this Agreement, that, in each case, would adversely affect the Tax-Free Status of the Transactions or result in any Taxes described in Schedule B; provided, however, that the term "SpinCo Disqualifying Action" shall not include any action entered into pursuant to any Ancillary Agreement (other than this Agreement) or that is undertaken pursuant to the Separation or the Distribution.

"SpinCo Group" shall have the meaning set forth in the Separation Agreement.

"SpinCo Separate Return" shall mean any Tax Return of or including any member of the SpinCo Group (including any consolidated, combined, or unitary return) that does not include any member of the Parent Group.

"SpinCo Shares" shall have the meaning set forth in the Separation Agreement.

"State Tax" shall mean (i) any Tax imposed by any State of the United States or by any political subdivision of any such State, and (ii) any interest, penalties, additions to tax, or additional amounts in respect of the foregoing.

"Straddle Period" shall mean any taxable period that begins on or before, and ends after, the Distribution Date.

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

"Tax" or "Taxes" shall mean (i) all taxes, charges, fees, duties, levies, imposts, rates, or other assessments or governmental charges of any kind imposed by any federal, state, local, or foreign Taxing Authority, including, without limitation, income, gross receipts, employment, estimated, excise, severance, stamp, occupation, premium, windfall profits, environmental, custom duties, property, sales, use, license, capital stock, transfer, franchise, registration, payroll, withholding, social security, unemployment, disability, value added, alternative or add-on minimum, or other taxes, whether disputed or not, and including any interest, penalties, charges, or additions attributable thereto, (ii) liability for the payment of any amount of the type described in clause (i) above arising as a result of being (or having been) a member of any consolidated, combined, unitary, or similar group or being (or having been) included or required to be included in any Tax Return related thereto, and (iii) liability for the payment of any amount of the type described in clauses (i) or (ii) above as a result of any express or implied obligation to indemnify or otherwise assume or succeed to the liability of any other Person, whether by contract, by operation of law, or otherwise.

"Tax Advisor" shall mean a tax counsel or accountant of recognized national standing.

"Tax Attribute" shall mean net operating losses, capital losses, research and experimentation credit carryovers, investment tax credit carryovers, earnings and profits, foreign tax credit carryovers, overall foreign losses, overall domestic losses, previously taxed earnings and profits, separate limitation losses, and any other losses, deductions, credits, or other comparable items that could affect a Tax liability for a past or future taxable period.

"Tax Certificates" shall mean any officer's certificates, representation letters, or similar documents provided by Parent and SpinCo to Skadden, Arps, Slate, Meagher & Flom LLP or any other law or accounting firm in connection with any Tax Opinion delivered or deliverable to Parent in connection with the Transactions.

"Tax Contest" shall have the meaning set forth in Section 6.1.

"Tax-Free Status of the Transactions" shall mean (i) the qualification of the Contribution (including Parent's receipt of SpinCo Shares, the SpinCo Contribution Payment, and any SpinCo Securities in connection therewith) and the Distribution, taken together, as a reorganization described in Sections 368(a)(1)(D) and 355 of the Code, (ii) the qualification of the Distribution as a transaction in which the SpinCo Shares distributed to holders of Parent Shares is "qualified property" for purposes of Section 361(c) of the Code, (iii) the nonrecognition of income, gain, or loss by Parent, SpinCo, and holders of Parent Shares on the Contribution and the Distribution under Sections 355, 361, and 1032 of the Code (except with respect to any cash received in lieu of fractional SpinCo Shares), other than, in the case of Parent and SpinCo, any intercompany items or excess loss accounts taken into account pursuant to the Treasury Regulations promulgated pursuant to Section 1502 of the Code, (iv) the qualification of any Debt Exchange as a transfer of "qualified property" to creditors of Parent in connection with the reorganization within the meaning of Section 361(c) of the Code, and (v) the qualification of the transactions described on Schedule A as being free from Tax to the extent set forth therein.

"Tax Item" shall mean any item of income, gain, loss, deduction, or credit, or any other item which increases or decreases Taxes paid or payable in any taxable period.

"Tax Law" shall mean the law of any governmental entity or political subdivision thereof relating to any Tax.

"Tax Materials" shall have the meaning set forth in Section 4.1(a).

"Tax Opinion" shall mean any written opinion delivered or deliverable to Parent by Skadden, Arps, Slate, Meagher & Flom LLP or any other law or accounting firm regarding the tax consequences of the Transactions.

"Tax Records" shall have the meaning set forth in Section 8.1.

"Tax-Related Losses" shall mean, with respect to any Taxes, (i) 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 (ii) all costs, expenses and damages associated with stockholder litigation or controversies and any amounts paid by Parent (or any of its Affiliates) or SpinCo (or any of its Affiliates) in respect of the liability of shareholders, whether paid to shareholders or to the IRS or any other Taxing Authority, in each case, resulting from the failure of the Transactions to qualify for the Tax-Free Status of the Transactions.

"Tax Return" shall mean any return, report, certificate, form, or similar statement or document (including any related supporting information or schedule attached thereto and any information return, amended tax return, claim for refund or declaration of estimated tax) supplied to or filed with, or required to be supplied to or filed with, a Taxing Authority, or any bill for or notice related to ad valorem or other similar Taxes received from a Taxing Authority, in each case, in connection with the determination, assessment, or collection of any Tax or the administration of any laws, regulations, or administrative requirements relating to any Tax.

"Taxing Authority" shall mean any governmental authority or any subdivision, agency, commission, or entity thereof having jurisdiction over the assessment, determination, collection, or imposition of any Tax (including the IRS).

"Transactions" shall mean the Separation, the Distribution, any Debt Exchange, any other transaction described in the Separation Step Plan, and any related transactions.

"Transaction Taxes" shall mean all Transfer Taxes and other Taxes (including Taxes imposed on any member of the Parent Group under Sections 951 or 951A of the Code, as determined by Parent in its discretion) imposed on or with respect to the Transactions, other than any Taxes resulting from the failure of the Transactions to qualify for the Tax-Free Status of the Transactions; provided, however, that Transaction Taxes shall not include any amounts for which SpinCo has an indemnification obligation pursuant to Article V.

"Transfer Tax" shall mean (i) all transfer, sales, use, excise, stock, stamp, stamp duty, stamp duty reserve, stamp duty land, documentary, filing, recording, registration, value-added and other similar Taxes (excluding, for the avoidance of doubt, any income, gains, profits, or similar Taxes, however assessed), and (ii) any interest, penalties, additions to tax, or additional amounts in respect of the foregoing.

"Treasury Regulations" shall mean the regulations promulgated from time to time under the Code as in effect for the relevant taxable period.

"Unqualified Tax Opinion" shall mean an unqualified "will" opinion of a Tax Advisor, which Tax Advisor is acceptable to Parent on which Parent may rely to the effect that a transaction will not affect the Tax-Free Status of the Transactions. Any such opinion must assume that the Transactions would have qualified for Tax-Free Status of the Transactions if the transaction in question did not occur.

ARTICLE II

PAYMENTS AND TAX REFUNDS

2.1 Allocation of Tax Liabilities. Except as otherwise provided in this Article II and Section 5.1, Taxes shall be allocated as follows:

(a) Allocation of Taxes Relating to Joint Returns.

(i) Allocation for Pre-Distribution Periods. Parent shall pay and be responsible for any and all Taxes due with respect to or required to be reported on any Joint Return (including any increase in such Tax as a result of a Final Determination) for all Pre-Distribution Periods.

(ii) Allocation to SpinCo for Post-Distribution Periods. SpinCo shall pay and be responsible for any and all Taxes attributable to the SpinCo Business that are due with respect to or required to be reported on any Joint Return (including any increase in such Tax as a result of a Final Determination) for all Post-Distribution Periods.

(iii) Allocation to Parent for Post-Distribution Periods. Parent shall pay and be responsible for any and all Taxes due with respect to or required to be reported on any Joint Return (including any increase in such Tax as a result of a Final Determination) other than those Taxes described in Section 2.1(a)(ii) for all Post-Distribution Periods.

(b) Allocation of Taxes Relating to Separate Returns.

(i) Parent shall pay and be responsible for any and all Taxes due with respect to or required to be reported on any Parent Separate Return (including any increase in such Tax as a result of a Final Determination) for all taxable periods.

(ii) SpinCo shall pay and be responsible for any and all Taxes due with respect to or required to be reported on any SpinCo Separate Return (including any increase in such Tax as a result of a Final Determination) for all taxable periods (excluding, for the avoidance of doubt, any Transaction Taxes allocated to the Parent Group pursuant to Section 2.4).

2.2 Determination of Taxes Attributable to the SpinCo Business. For purposes of Section 2.1(a)(ii):

(a) The amount of Federal Income Taxes attributable to the SpinCo Business shall be determined by Parent on the basis of a pro forma SpinCo Group consolidated return using the following conventions:

(i) including only Tax Items of members of the SpinCo Group that were included in the relevant Parent Federal Consolidated Income Tax Return;

(ii) except as provided in Section 2.2(a)(iv), using all elections, accounting methods and conventions used on the Parent Federal Consolidated Income Tax Return for such taxable period;

(iii) applying the highest statutory marginal corporate income Tax rate in effect for such taxable period; and

(iv) assuming that the SpinCo Group elects not to carry back any net operating losses.

(b) The amount of Income Taxes attributable to the SpinCo Business with respect to any Joint Return other than a Parent Federal Consolidated Income Tax Return shall be as determined by Parent in a manner consistent with the principles set forth in Section 2.2(a), to the extent relevant.

(c) In the case of any Joint Return for any Straddle Period, the allocation of any Tax Items required to determine any Taxes or other amounts attributable to Pre-Distribution Periods and Post-Distribution Periods shall be as determined by Parent in a manner consistent with the past return filing practices of the Parent Group with respect to such Joint Return (including any past accounting methods, elections and conventions), except as otherwise required by applicable Law; provided, that property Taxes and other similar periodic Taxes shall be apportioned on a per diem basis.

(d) The amount of Taxes attributable to the SpinCo Business with respect to any Joint Return for any Tax Period shall not be less than zero.

(e) Parent shall consider in good faith any reasonable comments provided by SpinCo regarding the determination of the amount of Taxes attributable to the SpinCo Business under this Section 2.2.

(f) SpinCo shall reimburse Parent for all reasonable costs and expenses paid or incurred by the Parent Group in connection with determining the amount of Taxes attributable to the SpinCo Business with respect to any Joint Return.

2.3 Employment Taxes. Liability for Employment Taxes shall be determined pursuant to the Employee Matters Agreement.

2.4 Transaction Taxes. The Parent Group shall be responsible for any and all Transaction Taxes, as reasonably determined by Parent.

2.5 Delayed SpinCo Assets; Delayed SpinCo Liabilities; Delayed Parent Assets; Delayed Parent Liabilities. The Parties acknowledge and agree that, notwithstanding anything contained herein to the contrary, this Agreement shall not in any way affect or modify the Parties' rights and obligations under Section 2.4 of the Separation Agreement.

2.6 Tax Refunds.

(a) Parent shall be entitled to all Refunds related to Taxes the liability for which is allocated to Parent pursuant to this Agreement. SpinCo shall be entitled to all Refunds related to Taxes the liability for which is allocated to SpinCo pursuant to this Agreement.

(b) SpinCo shall pay to Parent any Refund received by SpinCo or any member of the SpinCo Group that is allocable to Parent pursuant to this Section 2.6 no later than five (5) Business Days after the receipt of such Refund. Parent shall pay to SpinCo any Refund received by Parent or any member of the Parent Group that is allocable to SpinCo pursuant to this Section 2.6 no later than five (5) Business Days after the receipt of such Refund. For purposes of this Section 2.6, any Refund that arises as a result of an offset, credit, or other similar benefit in respect of Taxes other than a receipt of cash shall be deemed to be received on the earlier of (i) the date on which a Tax Return is filed claiming such offset, credit, or other similar benefit, and (ii) the date on which payment of the Tax which would have otherwise been paid absent such offset, credit, or other similar benefit is due (determined without taking into account any applicable extensions).

2.7 Tax Benefits. If Parent determines, in its discretion, that (i) one Party is responsible for a Tax pursuant to this Agreement or under applicable Tax Law, and (ii) the other Party is entitled to a deduction, credit, or other Tax benefit in respect of such Tax, then the Party entitled to such deduction, credit, or other Tax benefit shall pay to the Party responsible for such Tax the amount of the Tax benefit arising from such deduction, credit, or other Tax benefit, as determined by Parent in its discretion.

2.8 Prior Agreements. Except as set forth in this Agreement and in consideration of the mutual indemnities and other obligations of this Agreement, any and all prior Tax sharing or allocation agreements or practices between any member of the Parent Group and any member of the SpinCo Group shall be terminated with respect to the SpinCo Group as of the Distribution Date. No member of the SpinCo Group or the Parent Group shall have any continuing rights or obligations to any member of the other Group under any such agreement.

ARTICLE III

PREPARATION AND FILING OF TAX RETURNS

3.1 Parent's Responsibility. Parent shall prepare and file when due (taking into account any applicable extensions), or shall cause to be prepared and filed, all Joint Returns and all Parent Separate Returns, including any amendments to such Tax Returns.

3.2 SpinCo's Responsibility. SpinCo shall prepare and file when due (taking into account any applicable extensions), or shall cause to be prepared and filed, all Tax Returns, including any amended Tax Returns, required to be filed by or with respect to members of the SpinCo Group other than those Tax Returns which Parent is required to prepare and file under Section 3.1. The Tax Returns required to be prepared and filed by SpinCo under this Section 3.2 shall include any SpinCo Separate Returns and any amended SpinCo Separate Returns. For the avoidance of doubt, SpinCo shall prepare any transfer pricing documentation required to be prepared with respect to a Tax Return required to be prepared and filed under this Section 3.2.

3.3 Right To Review Tax Returns. To the extent that the positions taken on any Tax Return would reasonably be expected to materially affect the Tax position of the Party other than the Party that is required to prepare and file any such Tax Return pursuant to Section 3.1 or 3.2 (the "Reviewing Party"), the Party required to prepare and file such Tax Return (the "Preparing Party") shall prepare the portion of such Tax Return that relates to the business of the Reviewing Party (the Parent Business or the SpinCo Business, as the case may be), shall provide a draft of such portion of such Tax Return to the Reviewing Party for its review and comment at least thirty (30) days prior to the due date for such Tax Return (taking into account any applicable extensions), and shall modify such portion of such Tax Return before filing to include the Reviewing Party's reasonable comments. SpinCo shall provide to Parent any transfer pricing documentation required to be prepared with respect to a Tax Return for any taxable period that begins on or before the second anniversary of the Distribution Date with respect to which SpinCo is the Responsible Party at least thirty (30) days prior to the finalization of such transfer pricing documentation, and Parent shall be entitled to review and provide comments on such transfer pricing documentation. SpinCo shall modify such transfer pricing documentation prior to its finalization to include Parent's reasonable comments.

3.4 Cooperation. The Parties shall provide, and shall cause their Affiliates to provide, assistance and cooperation to one another in accordance with Article VII with respect to the preparation and filing of Tax Returns, including providing information required to be provided under Article VIII. Notwithstanding anything to the contrary in this Agreement, Parent shall not be required to disclose to SpinCo any consolidated, combined, unitary, or other similar Joint Return of which a member of the Parent Group is the common parent or any information related to such a Joint Return other than information relating solely to the SpinCo Group. If an amended Separate Return for State Taxes for which SpinCo is responsible under this Article III is required to be filed as a result of an amendment made to a Joint Return for Federal Income Tax pursuant to an audit adjustment, then the Parties shall cooperate to ensure that such amended Separate Return can be prepared and filed in a manner that preserves confidential information including through the use of third-party preparers.

3.5 Tax Reporting Practices. Except as provided in Section 3.6, with respect to any Tax Return for any taxable period that begins on or before the second anniversary of the Distribution Date with respect to which SpinCo is the Responsible Party, such Tax Return shall be prepared in a manner (i) consistent with past practices, accounting methods, elections and conventions ("Past Practices") used with respect to the Tax Returns in question (unless there is no Reasonable Basis for the use of such Past Practices), and to the extent any items are not covered by Past Practices (or in the event that there is no Reasonable Basis for the use of such Past Practices), in accordance with reasonable Tax accounting practices selected by SpinCo; and (ii) that, to the extent consistent with clause (i), minimizes the overall amount of Taxes due and payable on such Tax Return for all of the Parties by cooperating in making such elections or applications for group or other relief or allowances available in the taxing jurisdiction in which such Tax Return is filed. SpinCo shall not take any action inconsistent with the assumptions made (including with respect to any Tax Item) in determining all estimated or advance payments of Taxes on or prior to the Distribution Date. In addition, SpinCo (i) shall not be permitted, and shall not permit any member of the SpinCo Group, without Parent's prior written consent, to make a change in any of its methods of accounting for Tax purposes for any taxable period that begins on or before the second anniversary of the Distribution Date, and (ii) shall notify Parent of, and consider in good faith any reasonable comments provided by Parent regarding, any such change in method of accounting for any taxable period that begins after the second anniversary of the Distribution Date and on or before the fourth anniversary of the Distribution Date. Such notification and consideration described in clause (ii) of the preceding sentence shall occur prior to the making of any such change in method of accounting.

3.6 Reporting of the Transactions. The Tax treatment of any step in or portion of the Transactions shall be reported on each applicable Tax Return consistently with the Tax Materials and the Tax-Free Status of the Transactions, taking into account the jurisdiction in which such Tax Return is filed, unless there is no Reasonable Basis for such Tax treatment. In the event that a Party shall determine that there is no Reasonable Basis for such Tax treatment, such Party shall notify the other Party no later than twenty (20) Business Days prior to filing the relevant Tax Return, and the Parties shall attempt in good faith to agree on the manner in which the relevant portion of the Transactions shall be reported on such Tax Return.

3.7 Protective Section 336(e) Election. After the date hereof, Parent shall determine, in its sole and absolute discretion, whether to make a protective election under Section 336(e) of the Code and the Treasury Regulations promulgated thereunder (and any corresponding or analogous provisions of state and local Tax Law) in connection with the Distribution with respect to SpinCo and each other member of the SpinCo Group that is a domestic corporation for U.S. federal income tax purposes (a "Section 336(e) Election"). If Parent determines that a Section 336(e) Election would be beneficial:

(a) Parent, SpinCo, and their respective Affiliates shall cooperate in making the Section 336(e) Election, including by filing any statements, amending any Tax Returns, or taking such other actions as are reasonably necessary to carry out the Section 336(e) Election;

(b) if the Distribution fails to qualify (in whole or in part) for the Tax-Free Status of the Transactions and SpinCo or any member of the SpinCo Group realizes an increase in Tax basis as a result of the Section 336(e) Election (the "Section 336(e) Tax Basis"), then the cash Tax savings realized by SpinCo and each member of the SpinCo Group as a result of the Section 336(e) Tax Basis shall be shared between Parent and SpinCo in the same proportion as the Taxes giving rise to the Section 336(e) Tax Basis were borne by Parent and SpinCo (after giving effect to the indemnification obligations in this Agreement); and

(c) to the extent the Section 336(e) Election becomes effective, each Party agrees not to take any position (and to cause each of its Affiliates not to take any position) that is inconsistent with the Section 336(e) Election on any Tax Return, in connection with any Tax Contest, or otherwise, except as may be required by a Final Determination.

3.8 Payment of Taxes.

(a) With respect to any Tax Return required to be filed pursuant to this Agreement, the Responsible Party shall remit or cause to be remitted to the applicable Taxing Authority in a timely manner any Taxes due in respect of any such Tax Return.

(b) In the case of any Tax Return for which the Party that is not the Responsible Party is obligated pursuant to this Agreement to pay all or a portion of the Taxes reported as due on such Tax Return, the Responsible Party shall notify the other Party, in writing, of its obligation to pay such Taxes and, in reasonably sufficient detail, its calculation of the amount due by such other Party, and the Party receiving such notice shall pay such amount to the Responsible Party no later than the later of (i) five (5) Business Days prior to the date on which such payment is due, and (ii) fifteen (15) Business Days after the receipt of such notice.

(c) With respect to any estimated Taxes, the Party that is or will be the Responsible Party with respect to any Tax Return that will reflect (or otherwise give credit for) such estimated Taxes shall remit or cause to be remitted to the applicable Taxing Authority in a timely manner any estimated Taxes due. In the case of any estimated Taxes for which the Party that is not the Responsible Party is obligated pursuant to this Agreement to pay all or a portion of the Taxes that will be reported as due on any Tax Return that will reflect (or otherwise give credit for) such estimated Taxes, the Responsible Party shall notify the other Party, in writing, of its obligation to pay such estimated Taxes and, in reasonably sufficient detail, its calculation of the amount due by such other Party and the Party receiving such notice shall pay such amount to the Responsible Party no later than the later of (i) five (5) Business Days prior to the date on which such payment is due, and (ii) fifteen (15) Business Days after the receipt of such notice.

3.9 Amended Returns and Carrybacks.

(a) SpinCo shall not, and shall not permit any member of the SpinCo Group to, file or allow to be filed any request for an Adjustment for any Pre-Distribution Period without the prior written consent of Parent, such consent to be exercised in Parent's sole and absolute discretion.

(b) SpinCo shall, and shall cause each member of the SpinCo Group to, make any available elections to waive the right to carry back any Tax Attribute from a Post-Distribution Period to a Pre-Distribution Period.

(c) SpinCo shall not, and shall cause each member of the SpinCo Group not to, without the prior written consent of Parent, make any affirmative election to carry back any Tax Attribute from a Post-Distribution Period to a Pre-Distribution Period, such consent to be exercised in Parent's sole and absolute discretion.

(d) Receipt of consent by SpinCo or a member of the SpinCo Group from Parent pursuant to the provisions of this Section 3.9 shall not limit or modify SpinCo's continuing indemnification obligation pursuant to Article V.

3.10 Tax Attributes. Parent shall in good faith advise SpinCo in writing of the amount (if any) of any Tax Attributes which Parent determines, in its sole and absolute discretion, shall be allocated or apportioned to the SpinCo Group under applicable Tax Law. SpinCo and all members of the SpinCo Group shall prepare all Tax Returns in accordance with such written notice. SpinCo agrees that it shall not dispute Parent's determination of Tax Attributes. For the avoidance of doubt, Parent shall not be required in order to comply with this Section 3.10 to create or cause to be created any books and records or reports or other documents based thereon (including, without limitation, any "E&P studies," "basis studies" or similar determinations) that it does not maintain or prepare in the ordinary course of business.

ARTICLE IV

TAX-FREE STATUS OF THE TRANSACTIONS

4.1 Representations and Warranties.

(a) Parent, on behalf of itself and all other members of the Parent Group, hereby represents and warrants that (i) it has examined the IRS Ruling, the IRS Ruling Request, the Tax Opinion, the Tax Certificates, the Separation Step Plan, and any other materials delivered or deliverable in connection with the issuance of the IRS Ruling and the rendering of the Tax Opinion, in each case, as they exist as of the date hereof (collectively, the "Tax Materials"), and (ii) the facts presented and representations made therein, to the extent descriptive of or otherwise relating to Parent or any member of the Parent Group or the Parent Business, were or will be, at the time presented or represented and from such time until and including the Distribution Date, true, correct, and complete in all material respects. Parent, on behalf of itself and all other members of the Parent Group, hereby confirms and agrees to comply with any and all covenants and agreements in the Tax Materials applicable to Parent, any member of the Parent Group, or the Parent Business.

(b) SpinCo, on behalf of itself and all other members of the SpinCo Group, hereby represents and warrants that (i) it has examined the Tax Materials, and (ii) the facts presented and representations made therein, to the extent descriptive of or otherwise relating to SpinCo or any member of the SpinCo Group or the SpinCo Business, were or will be, at the time presented or represented and from such time until and including the Distribution Date, true, correct, and complete in all material respects. SpinCo, on behalf of itself and all other members of the SpinCo Group, hereby confirms and agrees to comply with any and all covenants and agreements in the Tax Materials applicable to SpinCo, any member of the SpinCo Group, or the SpinCo Business.

(c) Each of Parent, on behalf of itself and all other members of the Parent Group, and SpinCo, on behalf of itself and all other members of the SpinCo Group, represents and warrants that it knows of no fact or circumstance (after due inquiry) that may cause the Transactions to fail to qualify for the Tax-Free Status of the Transactions.

(d) Each of Parent on behalf of itself and all other members of the Parent Group, and SpinCo, on behalf of itself and all other members of the SpinCo Group, represents and warrants that it has no plan or intention to take, fail to take, or cause or permit to be taken any action which is inconsistent with any of the statements or representations made or set forth in the Tax Materials.

4.2 Certain Restrictions Relating to the Tax-Free Status of the Transactions.

(a) SpinCo, on behalf of itself and all other members of the SpinCo Group, hereby covenants and agrees that no member of the SpinCo Group will take, fail to take, or cause or permit to be taken (i) 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 the Tax Materials, or (ii) any action where such action or failure to act constitutes a SpinCo Disqualifying Action.

(b) During the Restricted Period, SpinCo:

(i) shall (1) maintain its status as a company engaged in the Active Trade or Business for purposes of Section 355(b)(2) of the Code, (2) not engage in any transaction that would cause SpinCo to cease to be a company engaged in the Active Trade or Business for purposes of Section 355(b)(2) of the Code, (3) cause each Affiliate of SpinCo whose Active Trade or Business is relied upon in the Tax Materials for purposes of qualifying a transaction as tax-free pursuant to Section 355 of the Code to maintain its status as a company engaged in such Active Trade or Business for purposes of Section 355(b)(2) of the Code, (4) not engage in any transaction, or cause or permit an Affiliate of SpinCo to engage in any transaction, that would result in an Affiliate of SpinCo described in clause (3) to cease to be a company engaged in the relevant Active Trade or Business for purposes of Section 355(b)(2) of the Code, taking into account Section 355(b)(3) of the Code for purposes of clauses (1) through (4), and (5) not dispose of, or cause or permit an Affiliate of SpinCo to dispose of, directly or indirectly, any interest in an Affiliate of SpinCo described in clause (3);

(ii) shall not voluntarily dissolve or liquidate itself, any Affiliate of SpinCo described in Section 4.2(b)(i), or any Affiliate of SpinCo that that was a party to an Internal Distribution (including any action that is a liquidation for U.S. federal income tax purposes);

(iii) shall not (1) enter into any Proposed Acquisition Transaction or, to the extent SpinCo has the right to prohibit any Proposed Acquisition Transaction, permit any Proposed Acquisition Transaction to occur, (2) redeem or otherwise repurchase (directly or through an Affiliate) any SpinCo

stock, or rights to acquire SpinCo 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), (3) amend its certificate of incorporation (or other organizational documents), or take any other action, whether through a stockholder vote or otherwise, affecting the relative voting rights of SpinCo Capital Stock (including through the conversion of any class of SpinCo Capital Stock into another class of SpinCo Capital Stock), (4) merge or consolidate with any other Person (or cause or permit any Affiliate of SpinCo that was a party to an Internal Distribution to merge or consolidate with any other Person), or (5) take any other action or actions (including any action or transaction that would be reasonably likely to be inconsistent with any of the statements and representations made or set forth in the Tax Materials) which in the aggregate, when combined with any other direct or indirect changes in ownership of SpinCo Capital Stock pertinent for purposes of Section 355(e) of the Code, 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 SpinCo (or in any Affiliate of SpinCo that was a party to an Internal Distribution) or otherwise jeopardize the Tax-Free Status of the Transactions; and

(iv) shall not, and shall not cause or permit any member of the SpinCo Group to, sell, transfer, or otherwise dispose of or agree to, sell, transfer or otherwise dispose of (including in any transaction treated for U.S. federal income tax purposes as a sale, transfer, or disposition) assets (including any shares of capital stock of a Subsidiary) that, in the aggregate, constitute more than twenty percent (20%) of the consolidated gross assets of SpinCo or the SpinCo Group. The foregoing sentence shall not apply to (1) sales, transfers, or dispositions of assets in the ordinary course of business, (2) any cash paid to acquire assets from an unrelated Person in an arm's-length transaction, (3) any assets transferred to a Person that is disregarded as an entity separate from the transferor for U.S. federal income tax purposes, or (4) any mandatory or optional repayment (or prepayment) of any indebtedness of SpinCo or any member of the SpinCo Group. The percentages of gross assets or consolidated gross assets of SpinCo or the SpinCo Group, as the case may be, sold, transferred, or otherwise disposed of, shall be based on the fair market value of the gross assets of SpinCo and the members of the SpinCo Group as of the Distribution Date. For purposes of this Section 4.2(b)(iv), a merger of SpinCo or one of its Subsidiaries with and into any Person that is not a wholly-owned Subsidiary of SpinCo shall constitute a disposition of all of the assets of SpinCo or such Subsidiary.

(c) Notwithstanding the restrictions imposed by Section 4.2(b), SpinCo or a member of the SpinCo Group may take any of the actions or transactions described therein if SpinCo either (i) obtains an Unqualified Tax Opinion in form and substance satisfactory to Parent in its sole and absolute discretion, or (ii) obtains the prior written consent of Parent waiving the requirement that SpinCo obtain an Unqualified Tax Opinion, such waiver to be provided in Parent's sole and absolute discretion. Parent's evaluation of an Unqualified Tax Opinion may consider, among other factors, the appropriateness of any underlying assumptions,

representations, and covenants made in connection with such opinion (and, for the avoidance of doubt, Parent may determine that no opinion would be acceptable to Parent). SpinCo shall bear all costs and expenses of securing any such Unqualified Tax Opinion and shall reimburse Parent for all reasonable out-of-pocket expenses that Parent or any of its Affiliates may incur in good faith in seeking to obtain or evaluate any such Unqualified Tax Opinion. Neither the delivery of an Unqualified Tax Opinion nor Parent's waiver of SpinCo's obligation to deliver an Unqualified Tax Opinion shall limit or modify SpinCo's continuing indemnification obligation pursuant to Article V.

ARTICLE V

INDEMNITY OBLIGATIONS

5.1 Indemnity Obligations. Notwithstanding anything to the contrary in this Agreement:

(a) Parent shall indemnify and hold harmless SpinCo from and against, and will reimburse SpinCo for, (i) all liability for Taxes allocated to Parent pursuant to Article II, (ii) all Taxes and Tax-Related Losses arising out of, based upon, or relating or attributable to any breach of or inaccuracy in, or failure to perform, as applicable, any representation, covenant, or obligation of any member of the Parent Group pursuant to this Agreement, (iii) all Taxes or Tax-Related Losses resulting from the failure of the Transactions to qualify for the Tax-Free Status of the Transactions, other than those Taxes or Tax Related Losses for which SpinCo is responsible pursuant to Section 5.1(b)(ii) or 5.1(b)(iv), and (iv) the amount of any Refund received by any member of the Parent Group that is allocated to SpinCo pursuant to Section 2.6(a).

(b) Without regard to whether an Unqualified Tax Opinion may have been provided or whether any action is permitted or consented to hereunder and notwithstanding anything else to the contrary contained herein, SpinCo shall indemnify and hold harmless Parent from and against, and will reimburse Parent for, (i) all liability for Taxes allocated to SpinCo pursuant to Article II, (ii) all Taxes and Tax-Related Losses arising out of, based upon, or relating or attributable to any breach of or inaccuracy in, or failure to perform, as applicable, any representation, covenant, or obligation of any member of the SpinCo Group pursuant to this Agreement, (iii) the amount of any Refund received by any member of the SpinCo Group that is allocated to Parent pursuant to Section 2.6(a), and (iv) any Taxes and Tax-Related Losses attributable to a SpinCo Disqualifying Action (regardless of whether the conditions set forth in Section 4.2(c) are satisfied).

(c) To the extent that any Tax or Tax-Related Loss is subject to indemnity pursuant to both Sections 5.1(a)(ii) (on the one hand) and 5.1(b)(ii) or (iv) (on the other hand), responsibility for such Tax or Tax-Related Loss shall be shared by Parent and SpinCo according to relative fault as determined by Parent in its good faith discretion.

5.2 Indemnification Payments.

(a) Except as otherwise provided in this Agreement, if either Party (the "Indemnitee") is required to pay to a Taxing Authority a Tax or to another Person a payment in respect of a Tax that the other Party (the "Indemnifying Party") is liable for under this Agreement, including as a result of a Final Determination, the Indemnitee shall notify the Indemnifying Party, in writing, of its obligation to pay such Tax and, in reasonably sufficient detail, its calculation of the amount due by such Indemnifying Party to the Indemnitee, including any Tax-Related Losses attributable thereto. The Indemnifying Party shall pay such amount, including any Tax-Related Losses attributable thereto, to the Indemnitee no later than the later of (i) five (5) Business Days prior to the date on which such payment is due to the applicable Taxing Authority, and (ii) fifteen (15) Business Days after the receipt of notice from the other Party.

(b) If, as a result of any change or redetermination, any amount previously allocated to and borne by one Party pursuant to the provisions of Article II is thereafter allocated to the other Party, then, no later than five (5) Business Days after such change or redetermination, such other Party shall pay to the first Party the amount previously borne by such Party which is allocated to such other Party as a result of such change or redetermination.

5.3 Payment Mechanics.

(a) All payments under this Agreement shall be made by Parent directly to SpinCo and by SpinCo directly to Parent; provided, however, that if the Parties mutually agree with respect to any such indemnification payment, any member of the Parent Group, on the one hand, may make such indemnification payment to any member of the SpinCo Group, on the other hand, and vice versa. All indemnification payments shall be treated in the manner described in Section 5.4.

(b) In the case of any payment of Taxes made by a Responsible Party or Indemnitee pursuant to this Agreement for which such Responsible Party or Indemnitee, as the case may be, has received a payment from the other Party, such Responsible Party or Indemnitee shall provide to the other Party a copy of any official government receipt received with respect to the payment of such Taxes to the applicable Taxing Authority (or, if no such official governmental receipts are available, executed bank payment forms or other reasonable evidence of payment).

5.4 Treatment of Payments. The Parties agree that any payment made between the Parties pursuant to this Agreement shall be treated for all U.S. federal income tax purposes, to the extent permitted by Law, as either (i) a non-taxable contribution by Parent to SpinCo, or (ii) a distribution by SpinCo to Parent, and, in the case of any payment made between the Parties pursuant to this Agreement after the Distribution, such payment shall be treated as having been made immediately prior to the Distribution. Notwithstanding the foregoing, Parent shall notify SpinCo if it determines that any payment made pursuant to this Agreement is to be treated, for any Tax purposes, as a payment made by one Party acting as an agent of one of such Party's Subsidiaries to the other Party acting as an agent of one of such other Party's Subsidiaries, and the Parties agree to treat any such payment accordingly. Any Tax indemnity payment made by a Party under this Agreement shall be increased as necessary so that after making all payments in respect of Taxes imposed on or attributable to such indemnity payment, the recipient Party receives an amount equal to the sum it would have received had no such Taxes been imposed.

ARTICLE VI

TAX CONTESTS

6.1 Notice. Each Party shall notify the other Party in writing within ten (10) days after receipt by such Party or any member of its Group of a written communication from any Taxing Authority with respect to any pending or threatened audit, examination, claim, dispute, suit, action, proposed assessment, or other proceeding (a "Tax Contest") concerning any Taxes for which the other Party may be liable pursuant to this Agreement, and thereafter shall promptly forward or make available to such Party copies of notices and communications relating to such Tax Contest. A failure by an Indemnitee to give notice as provided in this Section 6.1 (or to promptly forward any such notices or communications) shall not relieve the Indemnifying Party of its indemnification obligation under this Agreement, except to the extent that the Indemnifying Party shall have been actually prejudiced by such failure.

6.2 Separate Returns. In the case of any Tax Contest with respect to any Separate Return, the Party having the liability for the Tax pursuant to Article II shall have the sole responsibility and right to control the prosecution of such Tax Contest, including the exclusive right to communicate with agents of the applicable Taxing Authority and to control, resolve, settle, or agree to any deficiency, claim, or adjustment proposed, asserted, or assessed in connection with or as a result of such Tax Contest.

6.3 Joint Returns. In the case of any Tax Contest with respect to any Joint Return, Parent shall have the sole responsibility and right to control the prosecution of such Tax Contest, including the exclusive right to communicate with agents of the applicable Taxing Authority and to control, resolve, settle, or agree to any deficiency, claim, or adjustment proposed, asserted, or assessed in connection with or as a result of such Tax Contest.

6.4 Obligation of Continued Notice. During the pendency of any Tax Contest or threatened Tax Contest, each of the Parties shall provide prompt notice to the other Party of any written communication received by it or a member of its respective Group from a Taxing Authority regarding any Tax Contest for which it is indemnified by the other Party hereunder or for which it may be required to indemnify the other Party hereunder. Such notice shall attach copies of the pertinent portion of any written communication from a Taxing 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 Taxing Authority in respect of any such matters. Such notice shall be provided in a reasonably timely fashion; provided, however, that in the event that timely notice is not provided, a Party shall be relieved of its obligation to indemnify the other Party only to the extent that such delay results in actual increased costs or actual prejudice to such other Party.

6.5 Settlement 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 become liable to make any indemnification payment to the Controlling Party under this Agreement (i) the Controlling Party shall keep the Non-Controlling Party informed in a timely manner of all actions taken or proposed to be taken by the Controlling Party with respect to such potential adjustment in such Tax Contest, (ii) the Controlling Party

shall timely provide the Non-Controlling Party with copies of any correspondence or filings submitted to any Taxing Authority or judicial authority in connection with such potential adjustment in such Tax Contest, and (iii) 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 or obligation which it may have to the Controlling Party under this Agreement, and in no event shall such failure relieve the Non-Controlling Party from any other liability or obligation which it may have to the Controlling Party.

ARTICLE VII

COOPERATION

7.1 General.

(a) Each Party shall fully cooperate, and shall cause all members of such Party's Group to fully cooperate, with all reasonable requests in writing from the other Party, or from an agent, representative, or advisor of such Party, in connection with the preparation and filing of any Tax Return, claims for Refunds, the conduct of any Tax Contest, and calculations of amounts required to be paid pursuant to this Agreement, in each case, related or attributable to or arising in connection with Taxes of either Party or any member of either Party's Group covered by this Agreement and the establishment of any reserve required in connection with any financial reporting (a "Tax Matter"). Such cooperation shall include the provision of any information reasonably necessary or helpful in connection with a Tax Matter and shall include, without limitation, at each Party's own cost:

(i) the provision of any Tax Returns of either Party or any member of either Party's Group, books, records (including information regarding ownership and Tax basis of property), documentation, and other information relating to such Tax Returns, including accompanying schedules, related work papers, and documents relating to rulings or other determinations by Taxing Authorities;

(ii) the execution of any document (including any power of attorney) in connection with any Tax Contest of either Party or any member of either Party's Group, or the filing of a Tax Return or a Refund claim of either Party or any member of either Party's Group;

(iii) the use of the Party's commercially reasonable efforts to obtain any documentation in connection with a Tax Matter; and

(iv) the use of the Party's commercially reasonable efforts to obtain any Tax Returns (including accompanying schedules, related work papers, and documents), documents, books, records, or other information in connection with the filing of any Tax Returns of either Party or any member of either Party's Group.

(b) Each Party shall make its employees and facilities available, without charge, on a mutually convenient basis to facilitate such cooperation.

7.2 Consistent Treatment. Unless and until there has been a Final Determination to the contrary, each Party agrees not to take any position on any Tax Return, in connection with any Tax Contest, or otherwise that is inconsistent with (i) the treatment of payments between the Parent Group and the SpinCo Group as set forth in Section 5.4, (ii) the Tax Materials, or (iii) the Tax-Free Status of the Transactions.

ARTICLE VIII

RETENTION OF RECORDS; ACCESS

8.1 Retention of Records. For so long as the contents thereof may become material in the administration of any matter under applicable Tax Law, but in any event until the later of (i) sixty (60) days after the expiration of any applicable statutes of limitation (including any waivers or extensions thereof), and (ii) seven (7) years after the Distribution Date, the Parties shall retain records, documents, accounting data, and other information (including computer data) necessary for the preparation and filing of all Tax Returns (collectively, "Tax Records") in respect of Taxes of any member of either the Parent Group or the SpinCo Group for any Pre-Distribution Period or Post-Distribution Period or for any Tax Contests relating to such Tax Returns. At any time after the Distribution Date when the Parent Group proposes to destroy any Tax Records, Parent shall first notify SpinCo in writing, and the SpinCo Group shall be entitled to receive such records or documents proposed to be destroyed. At any time after the Distribution Date when the SpinCo Group proposes to destroy any Tax Records, SpinCo shall first notify Parent in writing, and the Parent Group shall be entitled to receive such records or documents proposed to be destroyed. The Parties will notify each other in writing of any waivers or extensions of the applicable statute of limitations that may affect the period for which the foregoing records or other documents must be retained.

8.2 Access to Tax Records. The Parties and their respective Affiliates shall make available to each other for inspection and copying, during normal business hours upon reasonable notice, all Tax Records (including, for the avoidance of doubt, any pertinent underlying data accessed or stored on any computer program or information technology system) in their possession. Each of the Parties shall permit the other Party and its Affiliates, authorized agents, and representatives and any representative of a Taxing Authority or other Tax auditor direct access, during normal business hours upon reasonable notice, to any computer program or information technology system used to access or store any Tax Records, in each case to the extent reasonably required by the other Party in connection with the preparation of Tax Returns or financial accounting statements, audits, litigation, or the resolution of items pursuant to this Agreement. The Party seeking access to the records of the other Party shall bear all costs and expenses associated with such access, including any professional fees.

ARTICLE IX

DISPUTE RESOLUTION

9.1 Dispute Resolution. In the event of any dispute between the Parties as to any matter covered by this Agreement, the Parties shall appoint a nationally recognized independent public accounting firm (the "Accounting Firm") to resolve such dispute. In this regard, the Accounting Firm shall make determinations with respect to the disputed items based solely on representations made by Parent, SpinCo, and their respective representatives, and not by independent review, and shall function only as an expert and not as an arbitrator and shall be required to make a determination in favor of one Party only. The Parties shall require the Accounting Firm to resolve all disputes no later than thirty (30) days after the submission of such dispute to the Accounting Firm, but in no event later than the due date for the payment of Taxes or the filing of the applicable Tax Return, if applicable, and agree that all decisions by the Accounting Firm with respect thereto shall be final and conclusive and binding on the Parties. The Accounting Firm shall resolve all disputes in a manner consistent with this Agreement and, to the extent not inconsistent with this Agreement, in a manner consistent with the Past Practices of Parent and its Subsidiaries, except as otherwise required by applicable Law. The Parties shall require the Accounting Firm to render all determinations in writing and to set forth, in reasonable detail, the basis for such determination. The fees and expenses of the Accounting Firm shall be borne equally by the Parties.

ARTICLE X

MISCELLANEOUS PROVISIONS

10.1 Conflicting Agreements. 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 or any Ancillary Agreement, this Agreement shall control with respect to the subject matter thereof.

10.2 Interest on Late Payments. With respect to any payment between the Parties pursuant to this Agreement not made by the due date set forth in this Agreement for such payment, the outstanding amount will accrue interest at a rate per annum equal to the rate in effect for underpayments under Section 6621 of the Code from such due date to and including the payment date.

10.3 Successors. This Agreement shall be binding on and inure to the benefit of any successor by merger, acquisition of assets, or otherwise, to either of the Parties (including but not limited to any successor of Parent or SpinCo succeeding to any Tax Attributes of either Party under Section 381 of the Code), to the same extent as if such successor had been an original party to this Agreement.

10.4 Assignability. This Agreement shall be binding upon and inure to the benefit of the Parties, and their respective successors and permitted assigns; provided, however, that neither Party may assign its rights or delegate its obligations under this Agreement without the express prior written consent of the other Party.

10.5 No Fiduciary Relationship. The duties and obligations of the Parties, and their respective successors and permitted assigns, contained herein are the extent of the duties and obligations contemplated by this Agreement; nothing in this Agreement is intended to create a fiduciary relationship between the Parties hereto, or any of their successors and permitted assigns, or create any relationship or obligations other than those explicitly described.

10.6 Further Assurances. In addition to the actions specifically provided for elsewhere in this Agreement, each of the Parties shall use its reasonable best efforts, prior to, on and after the Effective Time, to take, or cause to be taken, all actions, and to do, or cause to be done, all things, reasonably necessary, proper or advisable under applicable Laws, regulations and agreements to consummate and make effective the transactions contemplated by this Agreement.

10.7 Survival. Notwithstanding any other provision of this Agreement to the contrary, all representations, covenants, and obligations contained in this Agreement, and Liability for breach of any obligations contained herein, shall survive the Separation and Distribution and shall remain in full force and effect.

10.8 Notices. All notices, requests, claims, demands, or other communications under this Agreement shall be in English, shall be in writing and shall be given or made (and shall be deemed to have been duly given or made upon receipt) by delivery in person, by overnight courier service, by e-mail (followed by delivery of an original via overnight courier service) to the respective Parties at the following addresses (or at such other address for a Party as shall be specified in a notice given in accordance with this Section 10.8):

If to Parent, to:

Becton, Dickinson and Company
1 Becton Drive
Franklin Lakes, New Jersey 07417
Attention: Joseph LaSala
Chief Counsel - Transactions/M&A
E-mail: joseph_lasala@bd.com

If to SpinCo, to:

Embecta Corp.
300 Kimball Drive
Parsippany, New Jersey 07054
Attention: Jeff Mann
Senior Vice President, General Counsel, Head of Corporate Development
and Corporate Secretary
E-mail: jeff.mann@bd.com; jeff.mann@embecta.com

Any Party may, by notice to the other Party, change the address to which such notices are to be given.

10.9 Distribution Date. This Agreement shall become effective only upon the Distribution Date.

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

BECTON, DICKINSON AND COMPANY

By: /s/ Christopher J. DelOrefice
Name: Christopher J. DelOrefice
Title: Executive Vice President and Chief Financial Officer

EMBECTA CORP.

By: /s/ Jacob Elguicze
Name: Jacob Elguicze
Title: Chief Financial Officer

[*Tax Matters Agreement Signature Page*]

Exhibit 10.3

EXECUTION VERSION

EMPLOYEE MATTERS AGREEMENT

BY AND BETWEEN

BECTON, DICKINSON AND COMPANY

AND

EMBECTA CORP.

DATED AS OF MARCH 31, 2022

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EMPLOYEE MATTERS AGREEMENT

This EMPLOYEE MATTERS AGREEMENT, dated as of March 31, 2022 (this "Agreement"), is by and between Becton, Dickinson and Company, a New Jersey corporation ("Parent"), and Embecta Corp., a Delaware corporation ("SpinCo").

R E C I T A L S:

WHEREAS, the board of directors of Parent (the "Parent Board") has determined that it is in the best interests of Parent and its shareholders to create a new publicly traded company that shall operate the SpinCo Business;

WHEREAS, in furtherance of the foregoing, the Parent Board has determined that it is appropriate and desirable to separate the SpinCo Business from the Parent Business (the "Separation") and, following the Separation, make a distribution, on a pro rata basis, to holders of Parent Shares on the Record Date of all of the outstanding SpinCo Shares owned by Parent (the "Distribution");

WHEREAS, in order to effectuate the Separation and Distribution, Parent and SpinCo have entered into a Separation Agreement, dated as of March 31, 2022 (the "Separation Agreement");

WHEREAS, in addition to the matters addressed by the Separation Agreement, the Parties desire to enter into this Agreement to set forth the terms and conditions of certain employment, compensation and benefit matters; and

WHEREAS, the Parties acknowledge that this Agreement, the Separation Agreement and the other Ancillary Agreements represent the integrated agreement of Parent and SpinCo relating to the Separation and Distribution, are being entered into together and would not have been entered into independently.

NOW, THEREFORE, in consideration of 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, the Parties, intending to be legally bound, hereby agree as follows:

ARTICLE I
DEFINITIONS

Section 1.01. Definitions. For purposes of this Agreement, the following terms have the meanings set forth below, and capitalized terms used but not otherwise defined herein shall have the meaning ascribed to them in the Separation Agreement.

"Agreement" shall have the meaning set forth in the Preamble to this Agreement and shall include all Schedules hereto and all amendments, modifications, and changes hereto entered into pursuant to Section 9.08.

"Applicable Exchange" shall mean the securities exchange as may at the applicable time be the principal market for Parent Shares or SpinCo Shares, as applicable.

"Benefit Plan" shall mean any contract, agreement, policy, practice, program, plan, trust, commitment or arrangement providing for benefits, perquisites or compensation of any nature from an employer to any Employee or Former Employee, or to any family member, dependent, or beneficiary of any such Employee or Former Employee, including cash or deferred arrangement plans, profit sharing plans, post-employment programs, pension plans, thrift plans, supplemental pension plans, welfare plans, stock option, stock purchase, stock appreciation rights, restricted stock, restricted stock units, performance stock units, other equity-based compensation and contracts, agreements, policies, practices, programs, plans, trusts, commitments and arrangements providing for terms of employment, fringe benefits, severance benefits, change in control protections or benefits, travel and accident, life, accidental death and dismemberment, disability and accident insurance, tuition reimbursement, adoption assistance, travel reimbursement, vacation, sick, personal or bereavement days, leaves of absences and holidays; provided, however, that the term "Benefit Plan" does not include any government-sponsored benefits, such as workers' compensation, unemployment or any similar plans, programs, policies or individual agreements.

"COBRA" shall mean the U.S. Consolidated Omnibus Budget Reconciliation Act of 1985, as codified at Section 601 *et seq*. of ERISA and at Section 4980B of the Code.

"Distribution" shall have the meaning set forth in the Recitals.

"Employee" shall mean any Parent Group Employee or SpinCo Group Employee.

"ERISA" shall mean the U.S. Employee Retirement Income Security Act of 1974, as amended, and the regulations promulgated thereunder.

"Former Employee" shall mean any individual who is a former employee of the Parent Group as of the Effective Time and who is not a SpinCo Group Employee.

"Group" shall mean either the SpinCo Group or the Parent Group, as the context requires.

"HIPAA" shall mean the U.S. Health Insurance Portability and Accountability Act of 1996, as amended, and the regulations promulgated thereunder.

"Individual Agreement" shall mean any individual (a) employment contract or offer letter, (b) retention, severance or change in control agreement, (c) expatriate (including any international assignee) contract or agreement (including agreements and obligations regarding repatriation, relocation, equalization of Taxes and living standards in the host country), or (d) other agreement containing restrictive covenants (including confidentiality, non-competition and non-solicitation provisions) between a member of the Parent Group and a SpinCo Group Employee, as in effect immediately prior to the Effective Time.

"Labor Agreement" shall have the meaning set forth in Section 2.01.

"Parent" shall have the meaning set forth in the Preamble.

"Parent 401(k) Plan" shall mean the BD 401(k) Plan.

"Parent Awards" shall mean Parent SAR Awards, Parent PSU Awards, and Parent TVU Awards, collectively.

"Parent Benefit Plan" shall mean any Benefit Plan established, sponsored or maintained by Parent or any of its Subsidiaries immediately prior to the Effective Time, but excluding any SpinCo Benefit Plan.

"Parent Board" shall have the meaning set forth in the Recitals.

"Parent Compensation Committee" shall mean the Compensation Committee of the Parent Board.

"Parent Deferred Compensation Plan" shall mean the Deferred Compensation and Retirement Benefit Restoration Plan.

"Parent Directors' Plan" shall mean the 1996 Directors' Deferral Plan.

"Parent Defined Benefit Plan" shall mean the BD Retirement Plan.

"Parent Group Employees" shall have the meaning set forth in Section 3.01(a)(ii).

"Parent LTIP" shall mean the 2004 Employee and Director Equity-Based Compensation Plan and the Stock Award Plan.

"Parent Non-Employee Director" means an individual who serves or served as a non-employee director of the Parent Board.

"Parent PSU Award" shall mean an award of performance-based restricted stock units granted pursuant to a Parent LTIP that is outstanding as of immediately prior to the Effective Time.

"Parent Ratio" shall mean the quotient obtained by dividing (a) the Pre-Separation Parent Stock Value by (b) the Post-Separation Parent Stock Value.

"Parent TVU Award" shall mean an award of time-based restricted stock units granted pursuant to a Parent LTIP that is outstanding as of immediately prior to the Effective Time.

"Parent SAR" shall mean a stock appreciation right corresponding to shares of common stock of Parent granted under a Parent LTIP that is outstanding as of immediately prior to the Effective Time.

"Parent Welfare Plan" shall mean any Parent Benefit Plan which is a Welfare Plan.

"Parties" shall mean the parties to this Agreement.

"Post-Separation Parent Awards" shall mean Post-Separation Parent SAR Awards, and Post-Separation Parent TVU Awards, collectively.

"Post-Separation Parent TVU Award" shall mean a Parent TVU Award adjusted as of the Effective Time in accordance with Section 4.02(b).

"Post-Separation Parent SAR Award" shall mean a Parent SAR Award adjusted as of the Effective Time in accordance with Section 4.02(a).

"Post-Separation Parent Stock Value" shall mean the volume-weighted average trading price of Parent Shares trading on the Applicable Exchange on the trading day that immediately follows the effective time of the Distribution, as reported by Bloomberg, L.P.

"Pre-Separation Parent Stock Value" shall mean the closing price of Parent Shares trading on the Applicable Exchange on the trading day that immediately precedes the effective time of the Distribution, as reported by Bloomberg, L.P.

"QDRO" shall mean a qualified domestic relations order within the meaning of Section 206(d) of ERISA and Section 414(p) of the Code.

"Requesting Party" shall have the meaning set forth in Section 9.05.

"Restricted Employees" shall have the meaning set forth in Section 3.03.

"Separation" shall have the meaning set forth in the Recitals.

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

"SpinCo" shall have the meaning set forth in the Preamble.

"SpinCo 401(k) Plan" shall mean the Embecta 401(k) Plan.

"SpinCo 401(k) Trust" shall have the meaning set forth in Section 5.01(a).

"SpinCo Awards" shall mean SpinCo SAR Awards and SpinCo TVU Awards, collectively.

"SpinCo Benefit Plan" shall mean any Benefit Plan established, sponsored, maintained or contributed to by a member of the SpinCo Group as of or after the Effective Time, including any Benefit Plans retained or adopted by SpinCo pursuant to Section 2.03(a) and Section 2.03(b).

"SpinCo Deferred Compensation Plan" shall mean the SpinCo Deferred Compensation Plan, to be adopted by SpinCo as of the Effective Time pursuant to Section 2.03(a) and Article VI.

"SpinCo Delayed Employment Period" shall have the meaning set forth in Section 3.03.

"SpinCo Delayed Transfer Employee" shall have the meaning set forth in Section 3.03.

"SpinCo Directors' Plan" shall mean the SpinCo Directors' Plan, to be adopted by SpinCo as of the Effective Time pursuant to Section 2.03(a) and Article VI.

"SpinCo Group Employees" shall have the meaning set forth in Section 3.01(a)(i).

"SpinCo LTIP" shall mean the Embecta 2022 Employee and Director Equity-Based Compensation Plan, as established by SpinCo as of the Effective Time pursuant to Section 2.03(a) and Section 4.01.

"SpinCo PTO Plan" shall mean the plan established by SpinCo that provides paid time off benefits.

"SpinCo Restricted Stock Awards" shall mean an award of restricted stock assumed by SpinCo pursuant to the SpinCo LTIP in accordance with Section 4.02(c)(ii).

"SpinCo Ratio" shall mean the quotient obtained by dividing (a) the Pre-Separation Parent Stock Value by (b) the SpinCo Stock Value.

"SpinCo Severance Plan" shall mean the plan established by SpinCo that provides severance and unemployment compensation benefits.

"SpinCo TVU Award" shall mean an award of time-based restricted stock units assumed pursuant to the SpinCo LTIP in accordance with Section 4.02(b)(ii) or Section 4.02(c)(ii).

"SpinCo SAR Award" shall mean an award of stock appreciation rights assumed pursuant to the SpinCo LTIP in accordance with Section 4.02(a)(ii).

"SpinCo Stock Value" shall mean the volume-weighted average trading price of SpinCo Shares trading on the Applicable Exchange on the trading day that immediately follows the effective time of the Distribution, as reported by Bloomberg, L.P.

"SpinCo Welfare Plan" shall mean a Welfare Plan established, sponsored, maintained or contributed to by any member of the SpinCo Group for the benefit of SpinCo Group Employees.

"Trading Sessions" shall mean the period of time during any given calendar day, commencing with the determination of the opening price on the Applicable Exchange and ending with the determination of the closing per-share price on the Applicable Exchange, in which trading in Parent Shares or SpinCo Shares (as applicable) is permitted on the Applicable Exchange.

"Transferred Account Balances" shall have the meaning set forth in Section 7.01(d).

"Transferred Director" shall mean each SpinCo non-employee director as of the Effective Time who served on the Parent Board immediately prior to the Effective Time.

"Welfare Plan" shall mean any "welfare plan" (as defined in Section 3(1) of ERISA) or a "cafeteria plan" under Section 125 of the Code, and any benefits offered thereunder, and any other plan offering health benefits (including medical, prescription drug, dental, vision, mental health, substance abuse and retiree health), disability benefits, or life, accidental death and dismemberment, and business travel insurance, pre-Tax premium conversion benefits, dependent care assistance programs, employee assistance programs, contribution funding toward a health savings account, or flexible spending accounts.

"Welfare Transition Services Agreement" shall mean the Transition Services Agreement contemplated under Section 7.01.

ARTICLE II
GENERAL PRINCIPLES FOR ALLOCATION OF LIABILITIES

Section 2.01. General Principles. All provisions herein shall be subject to the requirements of all applicable Law and any collective bargaining, works council or similar agreement or arrangement with any labor union, works council or other labor representative (each, a "Labor Agreement"). Notwithstanding anything in this Agreement to the contrary, if the terms of a Labor Agreement or applicable Law require that any Assets or Liabilities be retained or assumed by, or transferred to, a Party in a manner that is different than what is set forth in this Agreement, such retention, assumption or transfer shall be made in accordance with the terms of such Labor Agreement and applicable Law and shall not be made as otherwise set forth in this Agreement; provided that, in such case, the Parties shall take all necessary action to preserve the economic terms of the allocation of Assets and Liabilities contemplated by this Agreement. The provisions of this Agreement shall apply in respect of all jurisdictions.

(a) *Acceptance and Assumption of SpinCo Liabilities*. Except as otherwise provided by this Agreement (and without limitation of Parent's and SpinCo's obligations under transition services arrangements), on or prior to the Effective Time, but in any case prior to the Distribution, SpinCo and the applicable SpinCo Designees shall accept, assume and agree faithfully to perform, discharge and fulfill all of the following Liabilities in accordance with their respective terms (each of which shall be considered a SpinCo Liability), regardless of when or where such Liabilities arose or arise, or whether the facts on which they are based occurred prior to, at or subsequent to the Effective Time, regardless of where or against whom such Liabilities are asserted or determined (including any Liabilities arising out of claims made by Parent's or SpinCo's respective directors, officers, Employees, Former Employees, agents, Subsidiaries or Affiliates against any member of the Parent Group or the SpinCo Group) or whether asserted or determined prior to the date hereof, and regardless of whether arising from or alleged to arise from negligence, recklessness, violation of Law, fraud or misrepresentation by any member of the Parent Group or the SpinCo Group, or any of their respective directors, officers, Employees, Former Employees, agents, Subsidiaries or Affiliates:

(i) any and all wages, salaries, incentive compensation, equity compensation, commissions, bonuses and any other employee compensation or benefits payable to or on behalf of any SpinCo Group Employees after the Effective Time, without regard to when such wages, salaries, incentive compensation, equity compensation, commissions, bonuses or other employee compensation or benefits are or may have been awarded or earned;

(ii) any and all Liabilities whatsoever with respect to claims under a SpinCo Benefit Plan, taking into account the SpinCo Benefit Plan's assumption of Liabilities with respect to SpinCo Group Employees that were originally the Liabilities of the corresponding Parent Benefit Plan with respect to periods prior to the Effective Time;

(iii) any and all Liabilities arising out of, relating to or resulting from the employment, or termination of employment of all SpinCo Group Employees; and

(iv) any and all Liabilities expressly assumed or retained by any member of the SpinCo Group pursuant to this Agreement.

(b) *Acceptance and Assumption of Parent Liabilities*. Except as otherwise provided by this Agreement, on or prior to the Effective Time, but in any case prior to the Distribution, Parent and certain members of the Parent Group designated by Parent shall accept, assume and agree faithfully to perform, discharge and fulfill all of the following Liabilities in accordance with their respective terms (each of which shall be considered a Parent Liability), regardless of when or where such Liabilities arose or arise, or whether the facts on which they are based occurred prior to, at or subsequent to the Effective Time, regardless of where or against whom such Liabilities are asserted or determined (including any Liabilities arising out of claims made by Parent's or SpinCo's respective directors, officers, Employees, Former Employees, agents, Subsidiaries or Affiliates against any member of the Parent Group or the SpinCo Group) or whether asserted or determined prior to the date hereof, and regardless of whether arising from or alleged to arise from negligence, recklessness, violation of Law, fraud or misrepresentation by any member of the Parent Group or the SpinCo Group, or any of their respective directors, officers, Employees, Former Employees, agents, Subsidiaries or Affiliates:

(i) any and all wages, salaries, incentive compensation, equity compensation, commissions, bonuses and any other employee compensation or benefits payable to or on behalf of any Parent Group Employees and Former Employees after the Effective Time, without regard to when such wages, salaries, incentive compensation, equity compensation, commissions, bonuses or other employee compensation or benefits are or may have been awarded or earned;

(ii) any and all Liabilities whatsoever with respect to claims under a Parent Benefit Plan, taking into account a corresponding SpinCo Benefit Plan's assumption of Liabilities with respect to SpinCo Group Employees that were originally the Liabilities of such Parent Benefit Plan with respect to periods prior to the Effective Time;

(iii) any and all Liabilities arising out of, relating to or resulting from the employment, or termination of employment of all Parent Group Employees and Former Employees; and

(iv) any and all Liabilities expressly assumed or retained by any member of the Parent Group pursuant to this Agreement.

(c) *Unaddressed Liabilities.* Nothing in this Agreement shall require a transfer of Liabilities with respect to a Benefit Plan except as specifically set forth herein or as otherwise required by applicable Law. To the extent that this Agreement does not address particular Liabilities under any Benefit Plan and the Parties later determine that they should be allocated in connection with the Distribution, the Parties shall agree in good faith on the allocation, taking into account the handling of comparable Liabilities under this Agreement.

(d) *Non-U.S. Employees*. SpinCo Group Employees who are residents outside of the United States or otherwise are subject to non-U.S. Law and their related benefits and Liabilities shall be treated in the same manner as the SpinCo Group Employees, respectively, who are residents of the United States and are not subject to non-U.S. Law. Notwithstanding anything in this Agreement to the contrary, all actions taken with respect to non-U.S. Employees or U.S. Employees working in non-U.S. jurisdictions, including any action under a Benefit Plan, shall be subject to and accomplished in accordance with applicable Law in the custom of the applicable jurisdictions and SpinCo may make such changes, modifications or amendments to the SpinCo Benefit Plans as may be required by applicable Law, vendor limitations or as are necessary to reflect the Separation.

Section 2.02. Service Credit. As of the Effective Time, the SpinCo Benefit Plans shall, and SpinCo shall cause each member of the SpinCo Group to, recognize each SpinCo Group Employee's full service with Parent or any of its Subsidiaries or predecessor entities at or before the Effective Time, to the same extent that such service was recognized by Parent for similar purposes prior to the Effective Time as if such full service had been performed for a member of the SpinCo Group, for purposes of eligibility, vesting and determination of level of benefits under any SpinCo Benefit Plans.

Section 2.03. Adoption and Transfer and Assumption of Benefit Plans.

(a) *Adoption by SpinCo of Benefit Plans.* As of no later than the Effective Time (or such other time as is set forth herein), SpinCo shall, or shall cause the members of the SpinCo Group to, adopt Benefit Plans (and related trusts), to the extent applicable, as contemplated and in accordance with the terms of this Agreement, which Benefit Plans are generally intended to contain terms substantially similar in all material respects to those of the corresponding Parent Benefit Plans as in effect immediately prior to the Effective Time.

(b) *Retention by SpinCo of SpinCo Plans*. From and after the Effective Time, SpinCo shall retain all of the SpinCo Benefits Plans, including all related Liabilities and Assets, and any related trusts and other funding vehicles and insurance contracts of any of such plans other than as specifically provided in this Agreement; provided, however, that SpinCo may make such changes, modifications or amendments to the SpinCo Benefit Plans as may be required by applicable Law or to reflect the Separation Agreement, including limiting participation in any such SpinCo Benefit Plan to SpinCo Group Employees who participated in the corresponding Parent Benefit Plan immediately prior to the Effective Time. Nothing in this Agreement shall preclude SpinCo, at any time after the Effective Time, from amending, merging, modifying, terminating, eliminating, reducing, or otherwise altering in any respect any SpinCo Benefit Plan, any benefit under any SpinCo Benefit Plan or any trust, insurance policy or funding vehicle related to any SpinCo Benefit Plan, or any employment or other service arrangement with SpinCo Group Employees, independent contractors or vendors (to the extent permitted by law).

(c) *Plans Not Required to Be Adopted*. With respect to any Benefit Plan not addressed in this Agreement, the Parties shall agree in good faith on the treatment of such plan taking into account the handling of any comparable plan under this Agreement and, notwithstanding that SpinCo shall not have an obligation to continue to maintain any such plan with respect to the provision of future benefits from and after the Effective Time, SpinCo shall remain obligated to pay or provide any previously accrued or incurred benefits to the SpinCo Group Employees consistent with Section 2.01(a) of this Agreement.

(d) *Information and Operation*. Each Party shall use its commercially reasonable efforts to provide the other Party with information describing each Benefit Plan election made by an Employee or Former Employee that may have application to such Party's Benefit Plans from and after the Effective Time, and each Party shall use its commercially reasonable efforts to administer its Benefit Plans using those elections, including any beneficiary designations. Each Party shall, upon reasonable request, use its commercially reasonable efforts to provide the other Party and the other Party's respective Affiliates, agents, and vendors all information reasonably necessary to the other Party's operation or administration of its Benefit Plans.

(e) *No Duplication or Acceleration of Benefits.* Notwithstanding anything to the contrary in this Agreement, the Separation Agreement or any Ancillary Agreement, no participant in any Benefit Plan shall receive service credit or benefits to the extent that receipt of such service credit or benefits would result in duplication of benefits provided to such participant by the corresponding Benefit Plan or any other plan, program or arrangement sponsored or maintained by a member of the Group that sponsors the corresponding Benefit Plan. Furthermore, unless expressly provided for in this Agreement, the Separation Agreement or in any Ancillary Agreement or required by applicable Law, no provision in this Agreement shall be construed to create any right to accelerate vesting distributions or entitlements under any Benefit Plan sponsored or maintained by a member of the Parent Group or member of the SpinCo Group on the part of any Employee or Former Employee.

(f) *Transition Services*. The Parties acknowledge that, in addition to the Welfare Transition Services Agreement, the Parent Group or the SpinCo Group may provide administrative services for certain of the other Party's compensation and benefit programs for a transitional period under the terms of the Transition Services Agreement. The Parties agree to enter into a business associate agreement (if required by HIPAA or other applicable health information privacy Laws) in connection with such Transition Services Agreement.

(g) *Beneficiaries*. References to Parent Group Employees, Former Employees, SpinCo Group Employees, and current and former non-employee directors of either Parent or SpinCo shall be deemed to refer to their beneficiaries, dependents, survivors and alternate payees, as applicable.

ARTICLE III
ASSIGNMENT OF EMPLOYEES

Section 3.01. Active Employees.

(a) *Assignment and Transfer of Employees.* Effective as of no later than the Effective Time and except as otherwise agreed by the Parties, (i) the applicable member of the Parent Group shall have taken such actions as are necessary to ensure that each individual who is intended to be an employee of the SpinCo Group as of immediately after the Effective Time (including any such individual who is not actively working as of the Effective Time as a result of an illness, injury or leave of absence approved by the Parent Human Resources department or otherwise taken in accordance with applicable Law) (collectively, the "SpinCo Group Employees") is employed by a member of the SpinCo Group as of immediately after the Effective Time and (ii) the applicable member of the Parent Group shall have taken such actions as are necessary to ensure that each individual who is intended to be an employee of the Parent Group as of immediately after the Effective Time (including any such individual who is not actively working as of the Effective Time as a result of an illness, injury or leave of absence approved by the Parent Human Resources department or otherwise taken in accordance with applicable Law) and any other individual employed by the Parent Group as of the Effective Time who is not a SpinCo Group Employee (collectively, the "Parent Group Employees") is employed by a member of the Parent Group as of immediately after the Effective Time. Each of the Parties agrees to execute, and to seek to have the applicable Employees execute, such documentation, if any, as may be necessary to reflect such assignment and/or transfer.

(b) *Employees with Work Visas or Permits; License to Do Business*. Notwithstanding anything to the contrary in this Section 3.01, a SpinCo Employee who, immediately prior to the Effective Time, is employed pursuant to a work or training visa or permit that authorizes employment only by a member of the Parent Group shall remain employed by such member of the Parent Group following the Effective Time until the visa or permit is amended or a new visa or permit is granted to authorize employment by a member of the SpinCo Group. Any such SpinCo Employee shall be treated as a SpinCo Delayed Transfer Employee for purposes of this Agreement. As of the Effective Time, the applicable member of the Parent Group shall cease to serve and SpinCo shall commence to serve as the sponsoring and petitioning employer for U.S. immigration law purposes with respect to Delayed SpinCo Employees. SpinCo shall assume all immigration-related obligations and liabilities that have arisen or will hereafter arise in connection with the submission of petitions, applications or other filings to certain US government authorities within the U.S. Department of Homeland Security (U.S. Citizenship and Immigration Services, Immigration and Customs Enforcement, and Customs and Border Protection), the U.S. Department of Labor or the U.S. Department of State (including any U.S. embassy or consular post) requesting the grant of employment-based nonimmigrant and immigrant visa benefits on behalf of these persons. The Parties intend that SpinCo (by agreeing to employ the SpinCo Employees and agreeing, as a sponsoring employer, to assume the immigration-related obligations and liabilities described above) shall be considered the successor in interest to the applicable member of the Parent Group for U.S. immigration law.

(c) *At-Will Status.* Nothing in this Agreement shall create any obligation on the part of any member of the Parent Group or any member of the SpinCo Group to (i) continue the employment of any Employee or permit the return from a leave of absence for any period after the date of this Agreement (except as required by applicable Law) or (ii) change the employment status of any Employee from "at-will," to the extent that such Employee is an "at-will" employee under applicable Law. Except as provided in this Agreement, this Agreement shall not limit the ability of the Parent Group or the SpinCo Group to change the position, compensation or benefits of any Employees for performance-related, business or any other reason.

(d) *Severance.* The Parties acknowledge and agree that the Separation, the Distribution and the assignment, transfer or continuation of the employment of Employees as contemplated by this Section 3.01 shall not be deemed an involuntary termination of employment entitling any SpinCo Group Employee or Parent Group Employee to severance payments or benefits, except as otherwise required by applicable Laws.

(e) *Not a Change in Control.* The Parties acknowledge and agree that neither the consummation of the Separation, the Distribution nor any transaction contemplated by this Agreement, the Separation Agreement or any other Ancillary Agreement shall be deemed a "change in control," "change of control" or term of similar import for purposes of any Benefit Plan sponsored or maintained by any member of the Parent Group or member of the SpinCo Group and except as provided in this Agreement or as otherwise required by applicable law or Individual Agreement, no provision of this Agreement shall be construed to accelerate any vesting or create a right or entitlement to any compensation or benefits on the part of any Employee.

(f) *Payroll and Related Taxes.* SpinCo shall (i) be responsible for all payroll obligations, Tax withholding and reporting obligations, and associated government audit assessments; and (ii) furnish a Form W-2 or similar earnings statement, in each case, for all Employees employed by a member of the SpinCo Group with respect to the period during which they were employed by a member of the SpinCo Group before the Distribution Date and for all SpinCo Group Employees following the Effective Time. Parent shall (A) be responsible for all payroll obligations, Tax withholding and reporting obligations, and associated government audit assessments; and (B) furnish a Form W-2 or similar earnings statement, in each case, for all Employees employed by a member of the Parent Group with respect to the period during which they were employed by a member of the Parent Group before Distribution Date and for all Parent Group Employees following the Effective Time.

Section 3.02. Individual Agreements.

(a) *Assignment by Parent or SpinCo.* To the extent necessary, Parent shall assign, or cause an applicable member of the Parent Group to assign, to SpinCo or another member of the SpinCo Group, as designated by SpinCo, Individual Agreements, with such assignment to be effective as of no later than the Distribution Date; provided, however, that to the extent that assignment of any such Individual Agreement is not permitted by the terms of such agreement or by applicable Law, effective as of the Distribution Date, each member of the SpinCo Group shall be considered to be a successor to each member of the Parent Group, for purposes of, and a third-party beneficiary with respect to, such agreement, such that each member of the SpinCo Group shall enjoy all of the rights and benefits under such agreement (including rights and benefits as a third-party beneficiary), with respect to the business operations of the SpinCo Group; provided, further, that in no event shall Parent be permitted to enforce any Individual Agreement (including any agreement containing non-competition or non-solicitation covenants) against a SpinCo Employee for action taken in such individual's capacity as a SpinCo Employee other than on behalf of the SpinCo Group as requested by the SpinCo Group in its capacity as a third-party beneficiary.

(b) *Assumption by SpinCo and Parent.* Effective as of no later than the Distribution Date, SpinCo shall, or shall cause the members of the SpinCo Group to, assume and honor any Individual Agreement, including any obligations thereunder to which any SpinCo Group Employee is a party with any member of the Parent Group.

Section 3.03. SpinCo Delayed Transfer Employees. In the case of a SpinCo Employee who is employed by a member of the Parent Group as of immediately prior to the Effective Time and whose employment cannot commence with, or be transferred to, the SpinCo Group or whose transfer of employment to the SpinCo Group is otherwise delayed (a "SpinCo Delayed Transfer Employee"), the Parties shall cooperate in good faith to cause such SpinCo Delayed Transfer Employee to provide services to the SpinCo Group while remaining employed by the Parent Group until such time as such SpinCo Delayed Transfer Employee's employment can be transferred to the SpinCo Group or otherwise terminates with the Parent Group. The Parties shall cooperate in good faith to cause each SpinCo Delayed Transfer Employee to commence employment with a member of the SpinCo Group as soon as reasonably practicable following the Closing Date as permitted by applicable Law in such a manner that, to the maximum extent practical, does not trigger the right of such SpinCo Employee to redundancy, severance, termination or similar pay and is otherwise consistent with the terms and conditions of this Agreement and applicable Law or Labor Agreement. In respect of the SpinCo Delayed Transfer Employees, unless otherwise specified, references to "Effective Time" and "Distribution Date" shall be treated as references to the first date and time at which the applicable SpinCo Delayed Transfer Employee's employment commences with or transfers to a member of the SpinCo Group. Notwithstanding the delayed transfer of a SpinCo Delayed Transfer Employee, from and after the Effective Time or, if earlier, the date of the applicable SpinCo Delayed Transfer Employee's termination of employment (the "SpinCo Delayed Employment Period"), any Liability related to a SpinCo Delayed Transfer Employee in respect of the SpinCo Delayed Employment Period (including with respect to compensation and benefits paid by Parent) shall be considered a SpinCo Liability; provided that, during such period, the SpinCo Group shall receive the benefit of such SpinCo Delayed Transfer Employee's services.

Section 3.04. Consultation with Labor Representatives; Labor Agreements. The Parties shall cooperate to notify, inform and/or consult with any labor union, works council or other labor representative regarding the Separation and Distributions to the extent required by Law or a Labor Agreement. No later than as of immediately before the Effective Time, (a) SpinCo shall have taken, or caused another member of the SpinCo Group to take, all actions that are necessary (if any) for SpinCo or another member of the SpinCo Group to (i) assume any Labor Agreements in effect with respect to SpinCo Group Employees (excluding obligations thereunder with respect to any Parent Group Employees or Former Employees, to the extent applicable) and (ii) unless otherwise provided in this Agreement, assume and honor any obligations of the Parent Group under any Labor Agreements as such obligations relate to SpinCo Group Employees, and (b) Parent shall have taken, or caused another member of the Parent Group to take, all actions that are necessary (if any) for Parent or another member of the Parent Group to (i) assume any Labor Agreements in effect with respect to Parent Employees and Former Employees (excluding obligations thereunder with respect to any SpinCo Group Employees) and (ii) assume and honor any obligations of the SpinCo Group under any Labor Agreements as such obligations relate to Parent Group Employees and Former Employees.

Section 3.05. Non-Solicitation.

(a) Each Party agrees that, for a period of 24 months from the Effective Time, such Party shall, and shall cause each member in its Group, to not solicit for employment, or hire, any individual who is an employee of a member of the other Group as of immediately prior to the Effective Time ("Restricted Employees"); provided that the foregoing restrictions shall not apply to: (i) any Restricted Employee who terminates employment at least 12 months prior to the applicable solicitation or hire, (ii) the solicitation or hire of a Person whose employment was involuntarily terminated by the employing Party in a severance qualifying termination before the employment discussions with the soliciting or hiring Party commenced, and (iii) any Restricted Employee whose prospective employment is agreed to in writing by both the Chief Human Resources Officer of the soliciting Party and the Chief Human Resources Officer of the employing Party, or in the case of a Restricted Employee who is not currently employed, the Party who last employed Restricted Employee. The Parties acknowledge that certain Parent Employees will be providing transition services to the SpinCo Group, and the SpinCo Group may desire to offer such Parent Employees employment with the SpinCo Group following the conclusion of the applicable transition services period, and the Parties agree to cooperate in good faith to consider authorization of exceptions to this provision with respect to such Parent Employees.

(b) *Remedies; Enforcement*. Each Party acknowledges and agrees that (i) injury to the employing Party from any breach by the other Party of the obligations set forth in this Section 3.05 would be irreparable and impossible to measure and (ii) the remedies at Law for any breach or threatened breach of this Section 3.05, including monetary damages, would therefore be inadequate compensation for any loss and the employing Party shall have the right to specific performance and injunctive or other equitable relief in accordance with this Section 3.05, in addition to any and all other rights and remedies at Law or in equity, and all such rights and remedies shall be cumulative. Each Party understands and acknowledges that the restrictive covenants and other agreements contained in this Section 3.05 are an essential part of this Agreement and the transactions contemplated hereby. It is the intent of the Parties that the provisions of this Section 3.05 shall be enforced to the fullest extent permissible under applicable Law applied in each jurisdiction in which enforcement is sought. If any particular provision or portion of this Section 3.05 shall be adjudicated to be invalid or unenforceable, such provision or portion thereof shall be deemed amended to the minimum extent necessary to render such provision or portion valid and enforceable, such amendment to apply only with respect to the operation of such provision or portion thereof in the particular jurisdiction in which such adjudication is made.

ARTICLE IV
EQUITY, INCENTIVE AND EXECUTIVE COMPENSATION

Section 4.01. Generally. Each Parent Award that is outstanding as of immediately prior to the Effective Time shall be adjusted as described below; provided, however, effective immediately prior to the Effective Time, the Parent Compensation Committee may provide for different adjustments with respect to some or all Parent Awards to the extent that the Parent Compensation Committee deems such adjustments necessary and appropriate. Any adjustments made by the Parent Compensation Committee pursuant to the foregoing sentence shall be deemed incorporated by reference herein as if fully set forth below and shall be binding on the Parties and their respective Affiliates. Before the Effective Time, the SpinCo LTIP shall be established, with such terms as are necessary to permit the implementation of the provisions of Section 4.02.

Section 4.02. Equity Incentive Awards.

(a) *SAR Awards*. Each Parent SAR Award that is outstanding as of immediately prior to the Effective Time shall be treated as follows:

(i) *Parent Group Employee or Former Employee*. If the holder is a Parent Group Employee or Former Employee, such award shall be converted, as of the Effective Time, into a Post-Separation Parent SAR Award and shall, except as otherwise provided in this Section 4.02, be subject to the same terms and conditions (including with respect to vesting and expiration) after the Effective Time as were applicable to such Parent SAR Award immediately prior to the Effective Time; provided, however, that from and after the Effective Time:

(A) the number of Parent Shares underlying such Post-Separation Parent SAR Award shall be equal to the product, rounded down to the nearest whole share, of (I) the number of Parent Shares underlying the corresponding Parent SAR Award immediately prior to the Effective Time, *multiplied by* (II) the Parent Ratio; and

(B) the per-share exercise price of such Post-Separation Parent SAR Award shall be equal to the quotient, rounded up to the nearest cent, of (I) the per-share exercise price of the corresponding Parent SAR Award immediately prior to the Effective Time, *divided by* (II) the Parent Ratio.

Notwithstanding anything to the contrary in this Section 4.02(a), the exercise price, the number of Parent Shares underlying each Post-Separation Parent SAR Award and the terms and conditions of exercise of such awards shall be determined in a manner consistent with the requirements of Section 409A of the Code.

(ii) *SpinCo Group Employee*. If the holder is a SpinCo Group Employee, such award shall be converted, as of the Effective Time, into a SpinCo SAR Award and shall, except as otherwise provided in this Section 4.02, be subject to the same terms and conditions (including with respect to vesting and expiration) after the Effective Time as were applicable to such Parent SAR Award immediately prior to the Effective Time; provided, however, that from and after the Effective Time:

(A) the number of SpinCo Shares underlying such SpinCo SAR Award shall be equal to the product, rounded down to the nearest whole share, of (I) the number of Parent Shares subject to the corresponding Parent SAR Award immediately prior to the Effective Time, *multiplied by* (II) the SpinCo Ratio; and

(B) the per-share exercise price of such SpinCo SAR Award shall be equal to the quotient, rounded up to the nearest cent, of (I) the per-share exercise price of the corresponding Parent SAR Award immediately prior to the Effective Time, *divided by* (II) the SpinCo Ratio.

Notwithstanding anything to the contrary in this Section 4.02(a), the exercise price, the number of SpinCo Shares underlying each SpinCo SAR Award and the terms and conditions of exercise of such awards shall be determined in a manner consistent with the requirements of Section 409A of the Code.

(b) *TVU Awards*. Each Parent TVU Award that is outstanding as of immediately prior to the Effective Time shall be treated as follows:

(i) *Parent Group Employee*. If the holder is a Parent Group Employee, or Parent Non-Employee Director (other than a Transferred Director) such award shall be converted, as of the Effective Time, into a Post-Separation Parent TVU Award and shall, except as otherwise provided in this Section 4.02, be subject to the same terms and conditions (including with respect to vesting and settlement) after the Effective Time as were applicable to such Parent TVU Award immediately prior to the Effective Time; provided, however, that from and after the Effective Time, the number of Parent Shares subject to such Post-Separation Parent TVU Award shall be equal to the product, rounded to the nearest whole share, of (A) the number of Parent Shares subject to the corresponding Parent TVU Award immediately prior to the Effective Time, *multiplied by* (B) the Parent Ratio.

(ii) *SpinCo Group Employee*. If the holder is a SpinCo Group Employee, such award shall be converted, as of the Effective Time, into a SpinCo TVU Award and shall, except as otherwise provided in this Section 4.02, be subject to the same terms and conditions (including with respect to settlement and vesting) after the Effective Time as were applicable to such Parent TVU Award immediately prior to the Effective Time; provided, however, that from and after the Effective Time, the number of SpinCo Shares subject to such SpinCo TVU Award shall be equal to the product, rounded to the nearest whole share, of (A) the number of Parent Shares subject to the corresponding Parent TVU Award immediately prior to the Effective Time, *multiplied by* (B) the SpinCo Ratio.

(c) *PSU Awards*. As of the Effective Time, Parent PSU Awards shall be treated as set forth below.

(i) *Parent Group Employee*. If the holder is a Parent Group Employee, such award shall remain subject to the same terms and conditions (including with respect to vesting and settlement) after the Effective Time as were applicable to such Parent Performance Award immediately prior to the Effective Time; provided, however, that from and after the Effective Time, the number of Parent Shares subject to such Parent PSU Award shall be equal to the product, rounded to the nearest whole share, of (A) the number of Parent Shares subject to such Parent PSU Award immediately prior to the Effective Time, *multiplied by* (B) the Parent Ratio; and, provided, further, that the Compensation Committee of the Parent Board may authorize such adjustments to the performance goals underlying the applicable Parent PSU Award as it determines to be appropriate to reflect the impact of the Separation.

(ii) *SpinCo Group Employee*. Prior to the Effective Time, the Parent Board shall determine the level of performance achieved with respect to each Parent PSU Award held by a SpinCo Group Employee that is outstanding as of immediately prior to the Effective Time and shall determine the resulting number of Parent Shares that shall remain subject to such Parent PSU Award (with the remaining Parent Shares subject to such Parent PSU Award shall be forfeited). Such award shall be converted, as of the Effective Time, into a SpinCo TVU Award and shall, except as otherwise provided in this Section 4.02, be subject to the same terms and conditions (including with respect to vesting and settlement) after the Effective Time as were applicable to such Parent PSU Award immediately prior to the Effective Time (other than with respect to performance conditions); provided, however, that from and after the Effective Time, the number of SpinCo Shares subject to such SpinCo TVU Award shall be equal to the product, rounded to the nearest whole share, of (A) the number of Parent Shares subject to the corresponding Parent PSU Award immediately prior to the Effective Time (based on the level of performance determined by Parent Board), *multiplied by* (B) the SpinCo Ratio.

(d) *Miscellaneous Award Terms*.

(i) None of the Separation, the Distribution or any employment transfer described in Section 3.01(a) shall constitute a termination of employment for any Employee for purposes of any Post-Separation Parent Award or any SpinCo Award.

(ii) After the Effective Time, for any award adjusted under this Section 4.02, any reference to a "change in control," "change of control" or similar definition in an award agreement, employment agreement or Parent LTIP applicable to such award, (x) with respect to Post-Separation Parent Awards, shall be deemed to refer to a "change in control," "change of control" or similar definition as set forth in the applicable award agreement, employment agreement or Parent Omnibus Plan, and (y) with respect to SpinCo Awards, shall be deemed to refer to a "Change in Control" as defined in the SpinCo LTIP.

(iii) For purposes of rounding fractional shares under Section 4.02(b) through (e), a fractional share which equals less than one-half of a share shall be rounded down to the nearest whole share and a fraction share that is equal to or greater than one-half of a share shall be rounded up to the nearest whole share.

(e) *Settlement; Tax Reporting and Withholding.*

(i) After the Effective Time, Post-Separation Parent Awards, regardless of by whom held, shall be settled by Parent, and SpinCo Awards, regardless of by whom held, shall be settled by SpinCo.

(ii) Upon the vesting, payment or settlement, as applicable, of Post-Separation Parent Awards, Parent shall be solely responsible for ensuring the satisfaction of all applicable Tax withholding requirements on behalf of each Former Employee. Following the Effective Time, if any Post-Separation Parent Award shall fail to become vested, such Post-Separation Parent Award shall be forfeited to Parent, and if any SpinCo Award shall fail to become vested, such SpinCo Award shall be forfeited to SpinCo.

(iii) Without limiting the generality of Section 3.01(f), Parent shall be responsible for all Liabilities (and entitled to the tax deduction) associated with awards that relate to Parent Shares following the Effective Time, and SpinCo shall be responsible for all Liabilities (and entitled to the tax deduction) associated with awards that relate to SpinCo Shares following the Effective Time. In the event the treatment specified in this Section 4.02(e)(iii) does not comply with applicable Law or results in the Party who bore the economic Liability associated with the award not being the Party entitled to the corresponding tax deduction under applicable Law, the Parties agree to negotiate in good faith an alternative treatment that complies with applicable Law and does not result in such adverse economic consequence to a Party.

(f) *Cooperation.* Each of the Parties shall establish an appropriate administration system to administer, in an orderly manner, (i) exercises of vested Post-Separation Parent SARs, (ii) the vesting and forfeiture of unvested Post-Separation Parent Awards, and (iii) the withholding and reporting requirements with respect to Post-Separation Parent SARs. To the extent necessary, 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 Person'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 vesting and forfeiture of awards and Tax withholding/remittance, compliance with trading windows and compliance with the requirements of the Exchange Act and other applicable Laws.

(g) *Registration and Other Regulatory Requirements*. SpinCo agrees to file the appropriate registration statements with respect to, and to cause to be registered pursuant to the Securities Act, the SpinCo Shares authorized for issuance under the SpinCo LTIP Plan, as required pursuant to the Securities Act, not later than the Effective Time and in any event before the date of issuance of any SpinCo Shares pursuant to the SpinCo LTIP Plan. The Parties shall take such additional actions as are deemed necessary or advisable to effectuate the foregoing provisions of this Section 4.02(g), including, to the extent applicable, compliance with securities Laws and other legal requirements associated with equity compensation awards in affected non-U.S. jurisdictions. Parent agrees to facilitate the adoption and approval of the SpinCo LTIP Plan.

Section 4.03. Non-Equity Incentive Plans.

(a) The SpinCo Group shall assume or retain all Liabilities with respect to all non-equity incentive awards that would otherwise be payable to SpinCo Employees for any performance periods that are open as of the Distribution Date. The SpinCo Group shall also determine for SpinCo Employees (i) the extent to which established performance criteria (as interpreted by the SpinCo Group, in its sole discretion) have been met, and (ii) the payment level for each SpinCo Employee. The SpinCo Group shall assume all Liabilities with respect to any such incentive awards payable to SpinCo Employees for any performance periods that are open as of the Closing and thereafter, and no member of the Parent Group shall have any obligations with respect thereto.

(b) The Parent Group shall assume or retain all Liabilities with respect to any non-equity incentive awards that would otherwise be payable to Parent Employees or Former Employees for any performance periods that are open as of the Distribution Date. The Parent Group shall also determine for Parent Group Employees or Former Employees (i) the extent to which established performance criteria (as interpreted by the Parent Group, in its sole discretion) have been met, and (ii) the payment level for each Parent Group Employee or Former Employee. The Parent Group shall retain (or assume as necessary) all Liabilities with respect to any such bonus awards payable to Parent Group Employees or Former Employees for any performance periods that are open when the Effective Time occurs and thereafter, and no member of the SpinCo Group shall have any obligations with respect thereto.

(c) From and following the Distribution Date, the SpinCo Group shall assume or retain pursuant to Section 2.03(b) any incentive plan for the exclusive benefit of SpinCo Group Employees, whether or not sponsored by the SpinCo Group, and, from and after the Effective Time, shall be solely responsible for all Liabilities thereunder.

Section 4.04. Director Compensation. Parent shall be responsible for the payment of any fees for service on the Parent Board that are earned at, before, or after the Effective Time, and SpinCo shall not have any responsibility for any such payments, except as otherwise provided in Section 4.02 or Article VI. With respect to any SpinCo non-employee director, SpinCo shall be responsible for the payment of any fees for service on the Board of Directors of SpinCo that are earned at any time after the Effective Time and Parent shall not have any responsibility for any such payments. SpinCo shall pay fees to SpinCo non-employee directors in respect of the quarter in which the Effective Time occurs; provided that Parent shall pay SpinCo an amount equal to the portion of such payment that is attributable to Transferred Directors' service to Parent on and prior to the Effective Time as soon as practicable following the Effective Time.

ARTICLE V
U.S. RETIREMENT PLANS

Section 5.01. Parent Defined Benefit Plan. Parent shall assume and retain the Parent Defined Benefit Plan as of the Effective Time and no member of the SpinCo Group shall assume or retain any Liability with respect to the Parent Defined Benefit Plan. Following the Effective Time, no SpinCo Group Employee shall be credited with any additional service under the Parent Defined Benefit Plan; except that for purposes of vesting and eligibility for early retirement subsidies only, any SpinCo Employee participating in the Parent Defined Benefit Plan immediately prior to the Effective Time who does not take a distribution of his or her benefit from the Parent Defined Benefit Plan shall receive credit for his or her continuous service with SpinCo on and after the Effective Time, and, at the Effective Time, SpinCo will reimburse Parent for the estimated costs ($1,980,000 or such amount as the plan's actuary shall determine prior to the Effective Time) of the subsidy for participating SpinCo Employees. SpinCo Employees participating in the Parent Defined Benefit Pension Plan immediately prior to the Effective Time who continue employment with SpinCo on and after the Effective Time shall be eligible for a temporary supplemental non-elective 401(k) contribution transition benefit (the "Transition Benefit") under the SpinCo 401(k) Plan. The Transition Benefit will expire in 2024.

Section 5.02. SpinCo 401(k) Plan.

(a) *Establishment of Plan*. Effective on or before the Distribution Date, SpinCo shall or shall cause the members of the SpinCo Group to adopt and establish the SpinCo 401(k) Plan and a related trust (the "SpinCo 401(k) Trust"), which shall be intended to meet the tax qualification requirements of Section 401(a) of the Code, the tax exemption requirement of Section 501(a) of the Code, and the requirements described in Sections 401(k) and (m) of the Code.

(b) *Transfer of Account Balances*. As soon as practicable following the Effective Time (or such other times as mutually agreed to by the parties), Parent shall cause the trustee of the Parent 401(k) Plan to transfer from the trust which forms a part of the Parent 401(k) Plan to the SpinCo 401(k) Trust, the account balances of SpinCo Group Employees under the Parent 401(k) Plan, determined as of the date of the transfer. Unless otherwise agreed by the parties, such transfers shall be made in kind, including promissory notes evidencing the transfer of

outstanding loans. Any Asset and Liability transfers pursuant to this Section 5.02 shall comply in all respects with Sections 414(l) and 411(d)(6) of the Code and if required, shall be made not less than 30 days after Parent shall have filed the notice under Section 6058(b) of the Code. The parties agree that to the extent that any Assets are not transferred in kind, the Assets transferred will be mapped into an appropriate investment vehicle which may include the SpinCo 401(k) Plan qualified default investment alternative.

(c) *Transfer of Liabilities*. Effective as of the Effective Time but subject to the Asset transfer specified in Section 5.02(b) above, the SpinCo 401(k) Plan shall assume and be solely responsible for all the Liabilities for or relating to SpinCo Group Employees under the Parent 401(k) Plan. SpinCo shall be responsible for all ongoing rights of or relating to SpinCo Group Employees for future participation (including the right to make payroll deductions) in the SpinCo 401(k) Plan.

(d) *SpinCo 401(k) Plan Provisions*. The SpinCo 401(k) Plan shall provide that:

(i) SpinCo Group Employees shall be eligible to participate in the SpinCo 401(k) Plan as of the Effective Time to the extent that they were eligible to participate in the Parent 401(k) Plan immediately prior to the Effective Time;

(ii) the account balance of each SpinCo Group Employee under the Parent 401(k) Plan as of the date of the transfer of Assets from the Parent 401(k) Plan (including any outstanding promissory notes relating to outstanding loans) shall be credited to such individual's account under the SpinCo 401(k) Plan; and

(iii) the SpinCo 401(k) Plan shall assume and honor the terms of all QDROs in effect under the Parent 401(k) Plan in respect of SpinCo Group Employees immediately prior to the Effective Time.

(e) *Plan Fiduciaries*. For all periods at and after the Effective Time, the parties agree that the applicable fiduciaries of each of the Parent 401(k) Plan and the SpinCo 401(k) Plans, respectively, shall have the authority with respect to the Parent 401(k) Plans and the SpinCo 401(k) Plan, respectively, to determine the investment alternatives, the terms and conditions with respect to those investment alternatives and such other matters as are within the scope of their duties under ERISA and the terms of the applicable plan documents.

(f) *Determination Letter Request.* SpinCo shall submit an application to the IRS as soon as practicable after adoption of the SpinCo 401(k) Plan (but no later than the last day of the remedial amendment period as described in Section 401(b) of the Code and the regulations and IRS pronouncements thereunder) requesting a determination letter that the SpinCo 401(k) Plan meets the qualification requirements under Sections 401(a) and 401(k) of the Code, as applicable, and shall make any amendments reasonably requested by the IRS to receive such a favorable determination letter.

Section 5.03. No Distributions. No SpinCo Group Employee shall be entitled to a right to a distribution of his or her benefit under the Parent 401(k) Plan as a result of the Separation, Distribution or the assignment of his or her transfer of employment contemplated by Section 3.01.

ARTICLE VI
NONQUALIFIED DEFERRED COMPENSATION PLANS

(a) *Establishment of SpinCo Deferred Compensation Plan and SpinCo Directors' Plan.* Effective as of no later than the Effective Time, (i) the SpinCo Group shall establish the SpinCo Deferred Compensation Plan, which shall have substantially the same terms as of immediately prior to the Effective Time as the Parent Deferred Compensation Plan other than with respect to portions of the Parent Deferred Compensation Plan that relate to Restoration Plan Benefits; (ii) the SpinCo Group shall establish the SpinCo Directors' Plan, which shall have substantially the same terms as of immediately prior to the Effective Time as the Parent Directors' Plan; and (iii) SpinCo shall and shall cause the SpinCo Group Deferred Compensation Plan or the SpinCo Directors' Plan, as applicable, to assume, as of no later than the Effective Time, all Liabilities under the Parent Deferred Compensation Plan related to the SpinCo Group Employees (other than with respect to Liabilities related to Restoration Plan Benefits) and all Liabilities under the Parent Directors' Plan related to the Transferred Directors and the Parent Deferred Compensation Plan and Parent Directors' Plan shall have no further obligations related to the SpinCo Group Employees other than with respect to Restoration Plan Benefits, and to the Transferred Directors from and following the Effective Time. Notwithstanding the foregoing, SpinCo may make such changes, modifications or amendments to the SpinCo Deferred Compensation Plan and the SpinCo Directors' Plan as may be required by applicable Law or as are necessary and appropriate to reflect the Separation and Distribution or as SpinCo otherwise determines to be advisable.

(b) *Parent Nonqualified Plans*. From and after the Effective Time, no SpinCo Group Employees, and Transferred Directors shall participate in or accrue any benefits under the Parent Deferred Compensation Plan or the Parent Directors' Plan, as applicable, and Parent shall continue to be responsible for Liabilities in respect of Parent Group Employees, Former Employees and Parent Non-Employee Directors under the Parent Nonqualified Deferred Compensation Plan. In addition, Parent shall continue to be responsible for Liabilities in respect of SpinCo Group Employees related to Restoration Plan Benefits.

(c) *Distributions*. The parties acknowledge that none of the transactions contemplated by this Agreement, the Separation Agreement or any Transaction Document will trigger a payment or distribution of compensation under the Parent Deferred Compensation Plan (other than with respect to the Restoration Plan Benefits accrued by SpinCo Group Employees), SpinCo Deferred Compensation Plan, Parent Directors' Plan, or SpinCo Directors' Plan.

ARTICLE VII
WELFARE BENEFIT PLANS

Section 7.01. Welfare Plans.

(a) *Welfare Plan Transition Services*. For the period beginning at the Effective Time and ending on December 31, 2022, SpinCo Group Employees will continue to participate in the Parent Welfare Plans in which such SpinCo Group Employees participated prior to the Effective Time, on the same terms and conditions as applied to such SpinCo Group Employees prior to the Effective Time. Prior to the Effective Time, the Parties will enter into a Welfare Transition Services Agreement with respect to the continued participation of SpinCo Group Employees in the Parent Welfare Plans. The Parties agree to enter into a business associate agreement (if required by HIPAA or other applicable health information privacy Laws) in connection with such Welfare Transition Services Agreement.

(b) *Establishment of SpinCo Welfare Plans*. Except as otherwise provided in this Article VII, as of or before January 1, 2023, SpinCo shall, or shall cause the members of the SpinCo Group to, establish the SpinCo Welfare Plans that generally correspond to the Parent Welfare Plans in which such SpinCo Group Employees participate immediately prior to such date. Beginning on January 1, 2023, SpinCo Group Employees who are employed by SpinCo or members of the SpinCo Group as of such date shall cease participation in all Parent Welfare Plans. Any Liabilities incurred or paid by the Parent Group after December 31, 2022 under the Parent Welfare Plan with respect to SpinCo Group Employees shall be subject to reimbursement by the SpinCo Group in accordance with Section 9.04. Without limiting the generality of Section 9.02, SpinCo may modify the terms of the SpinCo Welfare Plans as it deems necessary and appropriate.

Section 7.02. Vacation, Holidays and Leaves of Absence. As of or before the Effective Time, SpinCo shall, or shall cause the members of the SpinCo Group to, establish the SpinCo PTO Plan, which shall have terms substantially similar in all material respects to those of the corresponding Parent Benefit Plan. From and following the Effective Time, (a) the SpinCo Group shall retain all Liabilities with respect to vacation, holiday, annual leave or other leave of absence, and required payments related thereto, for each SpinCo Group Employee, unless otherwise required by applicable Law, and (b) the Parent Group shall retain all Liabilities with respect to vacation, holiday, annual leave or other leave of absence, and required payments related thereto, for each Parent Group Employee and Former Employee. Without limiting the generality of Section 9.02, SpinCo may modify the terms of the SpinCo PTO Plan as it deems necessary and appropriate.

Section 7.03. Severance and Unemployment Compensation. As of or before January 1, 2023, SpinCo shall, or shall cause the members of the SpinCo Group to, establish the SpinCo Severance Plan, which shall have terms substantially similar in all material respects to those of the corresponding Parent Benefit Plan. From and following the Effective Time, (a) the SpinCo Group shall retain any and all Liabilities to, or relating to, SpinCo Group Employees in respect of severance and unemployment compensation, regardless of whether the event giving rise to the Liability occurred before, at or after the Effective Time, and (b) the Parent Group shall retain any and all Liabilities to, or relating to, Parent Group Employees and Former Employees in respect of severance and unemployment compensation, regardless of whether the event giving rise to the Liability occurred before, at or after the Effective Time. Without limiting the generality of Section 9.02, SpinCo may modify the terms of the SpinCo Severance Plan as it deems necessary and appropriate.

Section 7.04. Workers' Compensation. With respect to claims for workers' compensation, (a) the SpinCo Group shall be responsible for claims in respect of SpinCo Group Employees, whether occurring before, at or after the Effective Time, and (b) the Parent Group shall be responsible for all claims in respect of Parent Group Employees and Former Employees, whether occurring before, at or after the Effective Time. The treatment of workers' compensation claims by SpinCo with respect to Parent insurance policies shall be governed by Section 5.1 of the Separation Agreement.

ARTICLE VIII
NON-U.S. EMPLOYEES

All actions taken under this Agreement with respect to benefits and Liabilities related to SpinCo Group Employees who are residents outside of the United States or otherwise subject to non-U.S. Law shall be subject to and accomplished in accordance with applicable Laws or regulations of countries outside of the United States in the custom of the applicable jurisdictions (including, as set forth in Section 2.01 above, as required by any applicable Labor Agreement). Except as otherwise may be expressly set forth in this Agreement, in the event that such applicable Law does not require Parent and/or SpinCo to take any specific action with respect to any such benefit or Liability, such benefits and Liabilities shall be treated in the same manner as those related to SpinCo Group Employees, respectively, who are residents of the United States and are not subject to non-U.S. Law. For the avoidance of doubt, Parent shall, in consultation with SpinCo, have the authority to adjust any treatment described in this Agreement with respect to SpinCo Group Employees who are located outside of the United States in order to ensure compliance with the applicable Laws or regulations of countries outside of the United States or to preserve the tax benefits provided under local tax law or regulation before the Distribution; provided that the Parties shall take all necessary action to preserve the economic terms of the allocation of Assets and Liabilities contemplated by this Agreement.

ARTICLE IX
MISCELLANEOUS

Section 9.01. Information Sharing and Access.

(a) *Sharing of Information.* Subject to any limitations imposed by applicable Law, each of Parent and SpinCo (acting directly or through members of the Parent Group or the SpinCo Group, respectively) shall provide to the other Party and its authorized agents and vendors all information necessary (including information for purposes of determining benefit eligibility, participation, vesting, calculation of benefits) on a timely basis under the circumstances for the Party to perform its duties under this Agreement. Such information shall include information relating to equity awards under stock plans. To the extent that such information is maintained by a third-party vendor, each Party shall use its commercially reasonable efforts to require the third-party vendor to provide the necessary information and assist in resolving discrepancies or obtaining missing data.

(b) *Transfer of Personnel Records and Authorization*. Subject to any limitation imposed by applicable Law and to the extent that it has not done so before the Effective Time, Parent shall transfer to SpinCo any and all employment records (including any Form I-9, Form W-2 or other IRS forms) with respect to SpinCo Group Employees and other records reasonably required by SpinCo to enable SpinCo properly to carry out its obligations under this Agreement. Such transfer of records generally shall occur as soon as administratively practicable at or after the Effective Time. Each Party shall permit the other Party reasonable access to its Employee records, to the extent reasonably necessary for such accessing Party to carry out its obligations hereunder.

(c) *Access to Records.* To the extent not inconsistent with this Agreement, the Separation Agreement or any applicable privacy protection Laws or regulations, reasonable access to Employee-related and benefit plan related records after the Effective Time shall be provided to members of the Parent Group and members of the SpinCo Group pursuant to the terms and conditions of Article VI of the Separation Agreement.

(d) *Maintenance of Records.* With respect to retaining, destroying, transferring, sharing, copying and permitting access to all Employee-related information, Parent and SpinCo shall comply with all applicable Laws, regulations and internal policies, and shall indemnify and hold harmless each other from and against any and all Liability, Actions, and damages that arise from a failure (by the indemnifying Party or its Subsidiaries or their respective agents) to so comply with all applicable Laws, regulations and internal policies applicable to such information.

(e) *Cooperation.* Each Party shall use commercially reasonable efforts to cooperate and work together to unify, consolidate and share (to the extent permissible under applicable privacy/data protection Laws) all relevant documents, resolutions, government filings, data, payroll, employment and benefit plan information on regular timetables and cooperate as needed with respect to (i) any claims under or audit of or litigation with respect to any employee benefit plan, policy or arrangement contemplated by this Agreement, (ii) efforts to seek a determination letter, private letter ruling or advisory opinion from the IRS or U.S. Department of Labor on behalf of any employee benefit plan, policy or arrangement contemplated by this Agreement, (iii) any filings that are required to be made or supplemented to the IRS, U.S. Pension Benefit Guaranty Corporation, U.S. Department of Labor or any other Governmental Authority, and (iv) any audits by a Governmental Authority or corrective actions, relating to any Benefit Plan, labor or payroll practices; provided, however, that requests for cooperation must be reasonable and not interfere with daily business operations.

(f) *Confidentiality.* Notwithstanding anything in this Agreement to the contrary, all confidential records and data relating to Employees to be shared or transferred pursuant to this Agreement shall be subject to Section 6.9 of the Separation Agreement and the requirements of applicable Law.

Section 9.02. Preservation of Rights to Amend. Except as specifically set forth in this Agreement, the rights of each member of the Parent Group and each member of the SpinCo Group to amend, waive, or terminate any plan, arrangement, agreement, program, or policy referred to herein shall not be limited in any way by this Agreement.

Section 9.03. Fiduciary Matters. Parent and SpinCo each acknowledges that actions required to be taken pursuant to this Agreement may be subject to fiduciary duties or standards of conduct under ERISA or other applicable Law, and no Party shall be deemed to be in violation of this Agreement if it fails to comply with any provisions hereof based upon its good-faith determination (as supported by advice from counsel experienced in such matters) that to do so would violate such a fiduciary duty or standard. Each Party shall be responsible for taking such actions as are deemed necessary and appropriate to comply with its own fiduciary responsibilities and shall fully release and indemnify the other Party for any Liabilities caused by the failure to satisfy any such responsibility.

Section 9.04. Further Assurances. Each Party hereto shall take, or cause to be taken, any and all reasonable actions, including the execution, acknowledgment, filing and delivery of any and all documents and instruments that any other Party hereto may reasonably request in order to effect the intent and purpose of this Agreement and the transactions contemplated hereby.

Section 9.05. Reimbursement of Costs and Expenses. The Parties shall promptly reimburse one another, upon reasonable request of the Party requesting reimbursement (the "Requesting Party") as soon as practicable, but in any event within 30 days of receipt of an invoice detailing all costs, expenses and other Liabilities paid or incurred by the Requesting Party (or any of its Affiliates), and any other substantiating documentation as the other Party shall reasonably request, that are, or have been made pursuant to this Agreement, the responsibility of the other Party (or any of its Affiliates) including those Liabilities, if any, under Section 7.01(b). Each Party shall provide 30 days' notice if it anticipates sending an invoice hereunder.

Section 9.06. Dispute Resolution. The dispute resolution procedures set forth in Article VII of the Separation Agreement shall apply to any dispute, controversy or claim arising out of or relating to this Agreement.

Section 9.07. Third-Party Beneficiaries. The provisions of this Agreement are solely for the benefit of the Parties and are not intended to confer upon any other Person except the Parties any rights or remedies hereunder. There are no third-party beneficiaries of this Agreement and this Agreement shall not provide any Third Person with any remedy, claim, Liability, reimbursement, claim of action or other right in excess of those existing without reference to this Agreement. Without limiting the generality of the foregoing, (a) nothing in this Agreement is intended to amend any employee benefit plan or affect the applicable plan sponsor's right to amend or terminate any employee benefit plan pursuant to the terms of such plan and (b) the provisions of this Agreement are solely for the benefit of the Parties, and no current or former Employee, officer, director, or independent contractor or any other individual associated therewith shall be regarded for any purpose as a third-party beneficiary of this Agreement.

Section 9.08. Incorporation of Separation Agreement Provisions. Article X of the Separation Agreement is incorporated herein by reference and shall apply to this Agreement as if set forth herein *mutatis mutandis*.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Parties have caused this Employee Matters Agreement to be executed by their duly authorized representatives as of the date first written above.

BECTON, DICKINSON AND COMPANY

By: /s/ Christopher J. DelOrefice
Name: Christopher J. DelOrefice
Title: Executive Vice President and Chief Financial Officer

EMBECTA CORP.

By: /s/ Jacob Elguicze
Name: Jacob Elguicze
Title: Chief Financial Officer

[Signature Page to Employee Matters Agreement]

Exhibit 10.4

EXECUTION VERSION

Certain confidential information contained in this document, marked by brackets, has been omitted because it is both (i) not material and (ii) would be competitively harmful if publicly disclosed.

INTELLECTUAL PROPERTY MATTERS AGREEMENT

BY AND BETWEEN

BECTON, DICKINSON AND COMPANY

AND

EMBECTA CORP.

DATED AS OF MARCH 31, 2022

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SCHEDULES

EXHIBITS

INTELLECTUAL PROPERTY MATTERS AGREEMENT

This INTELLECTUAL PROPERTY MATTERS AGREEMENT (this "Agreement"), dated as of March 31, 2022 (the "Effective Date"), is by and between Becton, Dickinson and Company, a New Jersey corporation ("Parent"), and Embecta Corp., a Delaware corporation ("SpinCo" and, together with Parent, the "Parties" and each, a "Party").

R E C I T A L S

WHEREAS, the board of directors of Parent (the "Parent Board") has determined that it is in the best interests of Parent and its shareholders to create a new publicly traded company that shall operate the SpinCo Business;

WHEREAS, in furtherance of the foregoing, the Parent Board has determined that it is appropriate and desirable to separate the SpinCo Business from the Parent Business (the "Separation") and, following the Separation, make a distribution, on a pro rata basis, to holders of Parent Shares on the Record Date of all outstanding SpinCo Shares owned by Parent (the "Distribution");

WHEREAS, to effectuate the Separation and the Distribution, Parent and SpinCo have entered into a Separation and Distribution Agreement, dated as of the date hereof (the "Separation and Distribution Agreement");

WHEREAS, to facilitate and provide for an orderly transition in connection with the Separation and the Distribution, Parent and its Subsidiaries (in such capacity, the "Parent Licensors") wish to grant to SpinCo and its Subsidiaries (in such capacity, the "SpinCo Licensees") licenses to certain Parent Patch Pump Patents, Parent Dual-Use Patents, Parent Licensed Other IP and Manufacturing Line IP, and SpinCo and its Subsidiaries (in such capacity, the "SpinCo Licensors") wish to grant to Parent and its Subsidiaries (in such capacity, the "Parent Licensees"), licenses to certain SpinCo Patents and SpinCo Other IP, in each case, as and to the extent set forth herein; and

WHEREAS, the Parties acknowledge that this Agreement, the Separation and Distribution Agreement, and the other Ancillary Agreements represent the integrated agreement of Parent and SpinCo relating to the Separation and the Distribution, are being entered into together, and would not have been entered into independently.

NOW, THEREFORE, in consideration of 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, the Parties, intending to be legally bound, hereby agree as follows:

ARTICLE I

DEFINITIONS AND INTERPRETATION

Section 1.1 Definitions. As used herein, the following terms have the meanings set forth below. Unless the context otherwise requires, capitalized terms that are not defined in this Agreement shall have the meanings set forth in the Separation and Distribution Agreement.

(a) "BD Name and BD Marks" has the meaning set forth in the Separation and Distribution Agreement.

(b) "Cannula Supply Agreement" means the Cannula Supply Agreement, entered into as of March 31, 2022, by and between Parent and SpinCo.

(c) "Change of Control" means, with respect to a Party: (i) a merger or consolidation of such Party with a Third Party, but only if the voting securities of such Party outstanding immediately prior thereto (or, if such voting securities are converted or exchanged in such merger or consolidation, any securities into which such voting securities have been converted or exchanged) neither represents (x) at least fifty percent (50%) of the combined voting power of the surviving entity of such merger or consolidation nor (y) at least fifty percent (50%) of the ultimate parent of such surviving entity immediately after such merger or consolidation; (ii) a transaction or series of related transactions (other than a merger or consolidation, which is addressed in clause (i)) in which a Third Party, together with its Affiliates, becomes the beneficial owner of fifty percent (50%) or more of the combined voting power of the outstanding securities of such Party; or (iii) the sale or other transfer to a Third Party, directly or indirectly, of all or substantially all of such Party's assets or business to which the subject matter of this Agreement relates.

(d) "Excluded Technology" means the Retained Cannula IP and Manufacturing Line IP.

(e) "Licensed BD Marks" means the Marks listed on Schedule I.

(f) "Licensed Cannula Marks" means the Marks listed on Schedule II.

(g) "Licensed Marks" means the Licensed BD Marks, Licensed Technology Marks and Licensed Cannula Marks.

(h) "Licensed Technology Marks" means the Marks listed on Schedule III.

(i) "Licensee(s)" means the Parent Licensees or the SpinCo Licensees, as applicable, in their capacities as the licensees or grantees of the rights or licenses granted to them by the SpinCo Licensors or the Parent Licensors, as applicable, pursuant to Article II and Article IV.

(j) "Licensor(s)" means the Parent Licensors or the SpinCo Licensors, as applicable, in their capacities as the licensors or grantors of any rights or licenses granted by them to the SpinCo Licensees or the Parent Licensees, as applicable, pursuant to Article II and Article IV.

(k) "Manufacturing Line IP" has the meaning set forth in Exhibit A of this Agreement.

(l) "Parent Business" has the meaning set forth in the Separation and Distribution Agreement.

(m) "Parent Dual-Use Patents" means (i) the Patents set forth in Schedule IV, (ii) any Patent added to Schedule IV following the date hereof in accordance with Section 3.5, (iii) any Patent that issues after the Effective Time that claims priority to any Patent in clause (i) or (ii), and (iii) any foreign counterparts to any of the foregoing. In addition, the Parent Dual-Use Patents shall include any Patent that issues after the Effective Time that claims an invention identified in the invention records set forth on Schedule IV.

(n) "Parent Field" means all fields other than the SpinCo Field.

(o) "Parent Licensed Other IP" means the Intellectual Property Rights (other than (i) Patents, Marks and Internet Properties and (ii) the SpinCo Intellectual Property) that is owned by Parent or its Subsidiaries as of immediately after the Distribution and embodied in or by any of the SpinCo Technology.

(p) "Parent Patch Pump Patents" means (i) the Patents set forth in Schedule V, (ii) any Patent that issues after the Effective Time that claims priority to any Patent in clause (i), and (iii) any foreign counterparts to any of the foregoing. In addition, the Parent Patch Pump Patents shall include any Patent that issues after the Effective Time that claims an invention identified in the invention records set forth on Schedule V.

(q) "Parent Technology" means any and all Technology, including any know-how or knowledge of any employees of the Parent Business, used in or held for use in the operation of the Parent Business.

(r) "Patch Pump Products" means any drug delivery device adhered or attached to the user's body, comprising a means for accessing the user's body, a reservoir which may be filled at time of use or pre-filled, a pumping mechanism for pumping fluid from the reservoir, and internal fluid pathway(s) within the device body providing a conduit from the reservoir to the user's body, and accessories thereto. Patch Pump Products may deliver doses of medication (including basal and/or bolus doses) from the reservoir, may also include an insertion mechanism for inserting and/or shielding a catheter, may include a variety of sensors and/or alarms for sensing and reporting various states of the device, and may include a communication system for communicating to an external controller. Patch Pump Products do not include: (i) infusion sets, which are devices that are externally tethered to a durable infusion pump, such as Medtronic's MiniMed™ Quick-set™, MiniMed™ mio™, MiniMed™ Silhouette™, and MiniMed™ Sure-T™, (such infusion sets being part of the subject matter to which Section 2.3 relates) or (ii) non-wearable, large volume pumps or a non-wearable syringe pump, such as the BD Alaris™ or the BD Bodyguard™ infusion pumps.

(s) "Patch Pump Technology" means any Parent Technology or SpinCo Technology related to Patch Pump Products.

(t) "Product" has the meaning set forth in the Cannula Supply Agreement.

(u) "Retained Cannula IP" means Intellectual Property Rights in the Technology relating to Parent cannula, manufacture thereof, and other critical cannula-related technology, including steel strip material specifications and processing, tubing welding and forming, tubing drawing/sinking processes, tubing cutting, tubing straightening, fabrication of point geometries (including grinding and etching), cannula cleaning, cannula bulk packaging, cannula inspection technologies (including point geometry) and patency.

(v) "SpinCo Business" has the meaning set forth in the Separation and Distribution Agreement.

(w) "SpinCo Field" means the diabetes care sector.

(x) "SpinCo Intellectual Property Rights" has the meaning set forth in the Separation and Distribution Agreement.

(y) "SpinCo Other IP" means the SpinCo Intellectual Property Rights (other than Patents, Marks and Internet Properties) that are embodied in or by any Parent Technology.

(z) "SpinCo Patents" means (i) the Patents included in the SpinCo Intellectual Property Rights, (ii) any Patent that issues after the Effective Time that claims priority to any Patent in clause (i), and (iii) any foreign counterparts to any of the foregoing. In addition, the SpinCo Patents shall include any Patent that issues after the Effective Time that claims an invention identified in the invention records set forth on Schedule VI.

(aa) "SpinCo Product" has the meaning set forth in the Cannula Supply Agreement.

(bb) "SpinCo Technology" has the meaning set forth in the Separation and Distribution Agreement.

(cc) "Zodiac Line IP" has the meaning set forth in Exhibit A of this Agreement.

Section 1.2 Other Definitions. As used herein, the following terms have the meanings set forth in the Sections set forth below.

Term	Section
Acquired Business	8.4
Acquired Party	8.4
Acquiring Party	8.4
Agreement	Preamble
Bankruptcy Code	5.1
BD Mark Term	4.1(a)
Discussion Period	Section 7.1(b)
Distribution	Recitals
Effective Date	Preamble

Parent	Preamble
Parent Board	Recitals
Parent Licensees	Recitals
Parent Licensors	Recitals
Parties	Preamble
Party	Preamble
Patent Action	3.7(b)
Separation	Recitals
Separation and Distribution Agreement	Recitals
SpinCo	Preamble
SpinCo Licensees	Recitals
SpinCo Licensors	Recitals
Steering Committee	Section 7.1(b)
Uncured Breach Notice	Section 7.1(b)

ARTICLE II

INTELLECTUAL PROPERTY LICENSES

Section 2.1 License to Parent for Certain Diabetes Care Technology.

(a) *Patent License*. Subject to the terms and conditions of this Agreement, the Parent Licensees hereby retain, and the SpinCo Licensors agree to grant, and hereby grant, to the Parent Licensees a nonexclusive, sublicensable (solely to the extent provided in Section 3.2), royalty-free, fully paid, nontransferable (except as set forth in Section 8.4), irrevocable (except as provided in Section 7.1(a)), worldwide license under the SpinCo Patents to make, have made, import, use, offer to sell, sell, and otherwise provide any current and future product or service, including to practice any method, process or procedure claimed in any of the SpinCo Patents, in each case, solely within the Parent Field.

(b) *Know-How License*. Subject to the terms and conditions of this Agreement, the Parent Licensees hereby retain, and the SpinCo Licensors agree to grant, and hereby grant, to the Parent Licensees a nonexclusive, sublicensable (to the extent provided in Section 3.2), royalty-free, fully paid, nontransferable (except as set forth in Section 8.4), perpetual, irrevocable (except as provided in Section 7.1(a)), worldwide license under the SpinCo Other IP to use, reproduce, distribute, disclose, make, modify, improve, display and perform, create derivative works of, or otherwise exploit any Parent Technology, in each case, solely within the Parent Field.

Section 2.2 License to SpinCo for Patch Pump Technology.

(a) *Patent License*. Subject to the terms and conditions of this Agreement, the Parent Licensors agree to grant, and hereby grant, to the SpinCo Licensees a nonexclusive, sublicensable (solely to the extent provided in Section 3.2), royalty-free, fully paid, nontransferable (except as set forth in Section 8.4), irrevocable (except as provided in Section 7.1(a)), worldwide license under the Parent Patch Pump Patents to make, have made, import, use, offer to sell, sell, and otherwise provide any current and future products or services,

including to practice any method, process or procedure claimed in any of the Parent Patch Pump Patents, in each case, solely with respect to the SpinCo Field; provided that the foregoing license does not extend to the Excluded Technology or any Intellectual Property Rights embodied therein; provided, further, that the foregoing license shall be exclusive (including as to Parent Licensors) solely with respect to Patch Pump Products developed or commercialized for infusion of insulin or insulin analogs.

(b) *Know-How License*. Subject to the terms and conditions of this Agreement, the Parent Licensors agree to grant, and hereby grant, to the SpinCo Licensees a nonexclusive, sublicensable (solely to the extent provided in Section 3.2), royalty-free, fully paid, nontransferable (except as set forth in Section 8.4), perpetual, irrevocable (except as provided in Section 7.1(a)), worldwide license under all of the Parent Licensed Other IP to use, reproduce, distribute, disclose, make, modify, improve, display and perform, create derivative works of, or otherwise exploit any Patch Pump Technology, in each case, solely with respect to Patch Pump Products in the SpinCo Field; provided that the foregoing license does not extend to the Excluded Technology or any Intellectual Property Rights embodied therein. During the term of the foregoing license, Parent Licensors agree that they will not, and will not permit or authorize any Third Party to, exploit any Patch Pump Technology for the development or commercialization of Patch Pump Products for infusion of insulin or insulin analogs.

(c) *Exclusivity Covenant*. For a period of ten (10) years following the Effective Date, SpinCo Licensees will not, and will not permit or authorize any Third Party to, commercialize a Patch Pump Product with the features set forth in Schedule VII for applications other than infusion of insulin or insulin analogs. In the event the SpinCo Licensees acquire a Third Party, the covenant in this Section 2.2(c) shall not extend to such Third Party's Patch Pump Products (and natural extensions of such products) sold, distributed, provided or otherwise commercialized at any time prior to the consummation of such transaction resulting in the acquisition of such Third Party; provided, for clarity, that the licenses granted herein will not extend to any such Patch Pump Products of the Third Party.

Section 2.3 License to SpinCo for Dual-Use Technology.

(a) *Patent License*. Subject to the terms and conditions of this Agreement, the Parent Licensors agree to grant, and hereby grant, to the SpinCo Licensees a nonexclusive, sublicensable (solely to the extent provided in Section 3.2), royalty-free, fully paid, nontransferable (except as set forth in Section 8.4), irrevocable (except as provided in Section 7.1(a)), worldwide license under the Parent Dual-Use Patents to make, have made, import, use, offer to sell, sell, and otherwise provide any current and future products or services, including to practice any method, process or procedure claimed in any of the Parent Dual-Use Patents, in each case, solely with respect to the SpinCo Field; provided that the foregoing license does not extend to the Excluded Technology or any Intellectual Property Rights embodied therein; provided, further, that the foregoing license shall be exclusive (including as to Parent Licensors) solely with respect to syringe or pen needle products promoted, marketed or labeled for injection of insulin or insulin analogs (for avoidance of doubt, marketing excludes a sale by Parent Licensors where there is no other marketing-type activity directed to, and where there is no promotion or labeling of, syringes or pen needles for injection of insulin or insulin analogs).

(b) *Know-How License*. Subject to the terms and conditions of this Agreement, the Parent Licensors agree to grant, and hereby grant, to the SpinCo Licensees a nonexclusive, sublicensable (solely to the extent provided in Section 3.2), royalty-free, fully paid, nontransferable (except as set forth in Section 8.4), perpetual, irrevocable (except as provided in Section 7.1(a)), worldwide license under all the Parent Licensed Other IP to use, reproduce, distribute, disclose, make, modify, improve, display and perform, create derivative works of, or otherwise exploit any SpinCo Technology (including, for clarity, Zodiac Line IP), in each case, solely with respect to the SpinCo Field; provided that the foregoing license does not extend to (i) Patch Pump Technology or Intellectual Property Rights embodied therein that are subject to the license in Section 2.2, and (ii) the Excluded Technology or any Intellectual Property Rights embodied therein. For a ten (10)-year period from Separation, Parent Licensors agree that they will not, and will not permit or authorize any Third Party to, exploit any SpinCo Technology for syringe or pen needle products promoted, marketed or labeled for injection of insulin or insulin analogs (for avoidance of doubt, marketing excludes a sale by Parent Licensors where there is no other marketing-type activity directed to, and where there is no promotion or labeling of, syringes or pen needles for injection of insulin or insulin analogs).

(c) *Exclusivity Covenant*. Parent Licensors shall not, and shall not permit or authorize any Third Party to, commercialize SafetyGlide TNT syringes (or products not more than colorably distinct therefrom) labeled and sold specifically for diabetes applications. Examples of such syringes include BD catalog numbers 305946, 328449 and 328447.

(d) *Parent Business*. Nothing in this Section 2.3 shall prohibit Parent Licensors from (i) operating the Pharmaceutical Systems business of Parent in substantially the same manner as operated as of the Separation (including commercializing the BD Vystra™ disposable pen, the BD Intevia™ and BD Physioject™ Autoinjectors, and the BD Hypak™, BD Neopak™ and BD Sterifill Advance™ pre-fillable syringe product lines, and natural extensions of the foregoing products), (ii) selling any prefillable syringe product to a pharmaceutical or biotech company (or to a person on behalf of such pharmaceutical or biotech company (*e.g.*, a contract manufacturer)), or (iii) commercializing BD Luer Slip Tip™ syringes.

(e) *Contract Manufacturing Agreements*. Nothing in this Section 2.3 shall limit Parent Licensors' rights (including rights to promote, market and sell) with respect to pen needles supplied by SpinCo under the Contract Manufacturing Agreements.

Section 2.4 Non-Policing. Notwithstanding the field limitations and obligations in this Article II, neither Party shall have an obligation to police or enforce end use of its products so long as such Party has complied with the applicable field limitations and obligations in this Article II.

Section 2.5 License to SpinCo for Manufacturing Line IP. Subject to the terms and conditions of this Agreement, Parent Licensors agree to grant, and hereby grant, to the SpinCo Licensees the licenses to Manufacturing Line IP in accordance with the terms set forth in Exhibit A.

ARTICLE III

ADDITIONAL LICENSE TERMS

Section 3.1 Rights of Subsidiaries.

(a) All rights and licenses granted in Article II are granted to SpinCo and Parent as a Licensee, respectively, and to any entity that is a Subsidiary of the Licensee, but only for so long as such entity is a Subsidiary of the Licensee, and, except as set forth in Section 3.1(b), will terminate with respect to such entity when it ceases to be a Subsidiary of the Licensee.

(b) Notwithstanding the foregoing, if such entity ceases to be a Subsidiary of Licensee, including by way of a divestiture, spin-off, split-off or similar transaction, the licenses granted in Section 2.1, Section 2.2, and Section 2.3, as applicable, shall continue to apply to such Subsidiary, but only with respect to the line of business that it is engaged in at the effective time of such cessation as a Subsidiary of Licensee; provided that such entity or its successor provides the applicable Licensors hereunder with written notice of its change in status as a Subsidiary of Licensee and agrees in writing to be bound by the terms and conditions of this Agreement, including any license limitations. In the event that such Subsidiary is acquired by a Third Party, the licenses granted herein will not extend to any products, business or operations of such Third Party that exist prior to the date of the consummation of such transaction.

Section 3.2 Sublicensing.

(a) The SpinCo Licensees and the Parent Licensees may sublicense the licenses and rights granted to them in Section 2.1(b), Section 2.2(b) and Section 2.3(b), respectively, to a Third Party solely in connection with the operation of such Licensee's business in the ordinary course, including in connection with the exploitation or licensing of its respective Technology, products and services; provided that (i) each Licensee shall, and shall cause its sublicensees to, comply with Section 5.2; (ii) each Licensee shall not disclose such Trade Secrets or confidential information of the other Party (including Technology that embodies such Trade Secrets or confidential information) to a Third Party, except in connection with the disclosure of such Party's own confidential information or Trade Secrets of at least comparable importance and value; and (iii) each Licensee shall be responsible and liable hereunder for any act or omission of a sublicensee as if such act or omission were taken by Licensee directly.

(b) Except with approval from the Licensor, not to be unreasonably withheld, neither SpinCo Licensee nor Parent Licensee shall sublicense the Patents licensed to it in Section 2.1(a), Section 2.2(a) and Section 2.3(a), respectively, to a Third Party, and neither SpinCo Licensee nor Parent Licensee shall exercise its "make" or "have made" rights in a manner that would have the effect of granting a sublicense to any Third Party. Without limiting the foregoing, SpinCo Licensee or Parent Licensee, as the case may be, may exercise its "make" or "have made" rights only with respect to its own products, the design of which is exclusively owned by it, including private label or original equipment manufacturer (OEM) versions of such products.

Section 3.3 No Other Rights; Retained Ownership.

(a) Each Party acknowledges and agrees that its rights and licenses to the other Party's Intellectual Property Rights are solely as set forth in, and as may be limited by, this Agreement, the Separation and Distribution Agreement and the other Ancillary Agreements. No Licensee shall exercise the respective Intellectual Property Rights licensed to such Licensee in Article II, respectively, outside the relevant licensed field. The Parent Licensors and the SpinCo Licensors retain sole ownership of the Intellectual Property Rights licensed by them in Article II, respectively.

(b) Notwithstanding anything to the contrary set forth in this Agreement, this Agreement grants to the Parent Licensees no right or license to any Intellectual Property Rights that the SpinCo Licensors may own now or in the future, except as expressly set forth in Section 2.1, whether by implication, estoppel or otherwise. The SpinCo Licensors retain sole ownership of the SpinCo Intellectual Property Rights licensed by the SpinCo Licensors under this Agreement.

(c) Notwithstanding anything to the contrary set forth in this Agreement, this Agreement grants to the SpinCo Licensees no right or license to any Intellectual Property Rights that the Parent Licensors may own now or in the future, except as expressly set forth in Section 2.2 and Section 2.3, whether by implication, estoppel or otherwise. The Parent Licensors retain sole ownership of the Parent Intellectual Property Rights licensed by the Parent Licensors under this Agreement.

Section 3.4 Reservation of Rights. All rights not expressly granted by a Party hereunder are reserved by such Party. The rights and licenses granted in Article II are subject to, and limited by, any and all licenses, rights, limitations and restrictions with respect to Intellectual Property Rights previously granted to or otherwise obtained by any Third Party that are in effect as of the Effective Date. Without limiting the foregoing, neither Party shall or shall have the right to file any Patent application based upon, or that includes, in whole or part, an invention disclosure owned by the other Party and licensed to it hereunder.

Section 3.5 Inadvertently Omitted Patents. In the event it is determined within the two (2)-year period following the Distribution that a Patent owned by Parent Licensors as of the Distribution was practiced by the SpinCo Business (other than with respect to Excluded Technology) as of the Distribution, then on request from SpinCo, such Patent shall be deemed for all purposes hereunder to be a Parent Dual-Use Patent as of the Distribution, and Schedule IV attached hereto shall be amended to include such Patent.

Section 3.6 Patent Prosecution and Maintenance.

(a) Subject to Section 3.6(b) and Section 3.6(c), each Party and its Subsidiaries retain the sole right, but not the obligation, to protect at their sole discretion the Patents owned or controlled by such Party and its Subsidiaries, including deciding whether and how to file and prosecute applications included in such Party's Intellectual Property Rights, whether to abandon prosecution of such applications, and whether to discontinue payment of any maintenance or renewal fees with respect to any such registration or issued items.

(b) Each Party, as Licensor of the Patents licensed under Section 2.1(a), Section 2.2(a) and Section 2.3(a), shall cooperate with Licensee to formulate commercially reasonable processes to keep the Licensee reasonably apprised of the status of such Patents, and such processes may vary on a Patent-by-Patent or Technology-by-Technology basis.

(c) Should the Parent Licensors choose to cease prosecution or maintenance of a Parent Patch Pump Patent licensed under Section 2.2(a) or Parent Dual-Use Patent licensed under Section 2.3(a), or choose not to defend the validity or enforceability of such Patent (such as pursuant to an *inter partes* review, opposition, reexamination, business method review, or post-grant challenge to a registration), the Parent Licensors shall promptly offer the SpinCo Licensees the opportunity to take over such prosecution, maintenance or defense (including, without limitation, by assuming an application or by filing a continuation application with respect to any claims abandoned or amended by Parent Licensors), in each case prior to any abandonment of rights therefor. Upon SpinCo Licensee's request, Parent Licensor shall assign any such Patent to a SpinCo Licensee at no cost and provide such assistance and perform such actions as may be requested by SpinCo Licensee in connection therewith or any maintenance, defense, or enforcement thereof. SpinCo Licensees hereby grant Purchaser Licensors a worldwide, nonexclusive, sublicensable (solely to the extent provided in Section 3.2), royalty-free, fully paid, nontransferable and sublicensable (except as set forth in Section 8.4), irrevocable, unrestricted right and license under any such Patent assigned to Purchaser Licensees by Seller Licensors; provided that the field of the foregoing license with respect to (i) any Parent Patch Pump Patent shall not include the SpinCo Licensees' exclusive field in Section 2.2(a), or (ii) any Parent Dual-Use Patent shall not include the SpinCo Licensees' exclusive field in Section 2.3(a). Additionally, if Parent Licensor elects not to seek patent protection in a territory where SpinCo Licensees desires to do so and the corresponding Patent (if issued) would be considered a Parent Dual-Use Patent or Parent Patch Pump Patent, then SpinCo Licensees may require Parent Licensor to facilitate the filing at the SpinCo Licensee's expense, and SpinCo Licensees shall remain obligated to reimburse continuing costs associated with prosecution and maintenance of such Patent.

Section 3.7 Patent Enforcement.

(a) *Notice of Infringement*. In the event that either Party reasonably believes that any Patent licensed to it under Section 2.1(a), Section 2.2(a) and Section 2.3(a), respectively, is being infringed by a Third Party, such Party shall promptly notify the other Party.

(b) *Initiating Actions*. Each Party, as a Licensor and owner of a Patent licensed to the other Party as Licensee, shall have the initial right (but not the obligation), at its own expense, to bring an action for infringement against a Third-Party infringer of any such Patent or to defend any declaratory judgment action seeking to invalidate such Patent or a declaration of non-infringement (either such action, a "Patent Action"). The SpinCo Licensees' enforcement rights with respect to the exclusive rights under the Parent Patch Pump Patents licensed to it under Section 2.2(a) and the Parent Dual-Use Patents licensed to it under Section 2.3(a) shall be governed by Section 3.7(c). Each Party's enforcement rights as a nonexclusive licensee of the Patents licensed to it under Section 2.1(a), Section 2.2(a) and Section 2.3(a), respectively, shall be governed by Section 3.7(c).

(c) *SpinCo Licensees' Exclusive Field*. If the scope of infringement at issue in such a Patent Action involving the Parent Patch Pump Patents or Parent Dual-Use Patents in Section 3.7(b) includes the SpinCo Licensees' exclusive field, then Parent Licensors shall have the first right to determine whether any Patent Action shall be taken, and the SpinCo Licensees may participate at their own expense in such Patent Action insofar as it relates to the SpinCo Licensees' exclusive field, and the Parties will reasonably cooperate with each other in pursuing such action in accordance with Section 3.7(e). If the Parent Licensors fail to initiate an infringement action under Section 3.7(b) within twenty (20) days of a written request by SpinCo Licensees, or do not intend to respond to a declaratory judgment action in a timely manner, and the scope of infringement at issue includes the SpinCo Licensees' exclusive field, then upon notice to Parent Licensors, SpinCo Licensees shall have the second right to initiate such Patent Action (including responding to any declaratory judgment action) at their own expense. In addition, to the extent required to maintain such Patent Action, Parent Licensors shall agree to be named as a party to such Patent Action and may participate in such action at their own expense. The Parties will reasonably cooperate with each other in pursuing such action in accordance with Section 3.7(e).

(d) *Licensees' Nonexclusive Field*. To the extent the scope of infringement at issue in such a Patent Action in Section 3.7(b) is in a Licensee's non-exclusively licensed field, then Licensee may participate at their own expense in such Patent Action insofar as it relates to such Licensee's non-exclusively licensed field, and the Parties will reasonably cooperate with each other in pursuing such action in accordance with Section 3.7(e). Licensee may request in writing that Licensor initiate such a Patent Action, and if Licensor declines Licensee's request (or fails to respond to Licensee's request within thirty (30) days), then Licensee shall have the right to request a meeting, to take place within ten (10) days, between in-house intellectual property counsel and vice president-level or higher business representatives from each Party to attempt in good faith to reach agreement with respect to the Patent Action. For clarity, it will not be unreasonable for Licensor to decline Licensee's request to pursue a Patent Action if Licensor reasonably believes that such Patent Action would likely result in the Licensor's Patent at issue being rendered unpatentable or unenforceable or would otherwise have a significant negative commercial impact on Licensor. If the Parties reach an agreement to pursue the Patent Action, then the Parties will reasonably cooperate with each other in pursuing such action in accordance with Section 3.7(e).

(e) *Cooperation*. Regardless of which Party initiates the Patent Action, each Party shall keep the other Party reasonably informed of all material developments in connection with such Patent Action. Each Party may provide input and comments related to the strategy for any such Patent Action, and the other Party shall consider such input and comments in good faith. In addition, the Parties shall assist one another and cooperate in any such Patent Action at the other's reasonable request and expense, and may participate in such action at its own expense. Such cooperation shall include agreeing to be named as a party to such Patent Action initiated (by filing or counterclaim) by the other Party at the request of the initiating Party and taking such other actions as are necessary for standing or for the Party initiating or defending any action to otherwise maintain or pursue such Patent Action, at the initiating or defending Party's expense. Neither Party shall take any action, or refrain from taking any action, including agreeing to any settlement, that could reasonably be expected to affect the other Party's rights with respect to a Patent without consulting with, and obtaining the consent of, the other Party (which consent shall not be unreasonably withheld or delayed). For clarity, it will not be unreasonable for a Party to withhold such consent if the requested action would be likely to adversely impact the Party's right to exclude others from practicing the Patent in such Party's exclusive field.

(f) *Recovery*. Any damages or other monetary awards recovered from a Patent Action shall be allocated first to reimburse the out-of-pocket costs and expenses of each Party incurred in such Patent Action. For a Patent Action involving a Parent Patch Pump Patent or Parent Dual-Use Patent where the scope of infringement includes the SpinCo Licensees' exclusive field under Section 3.7(c), any remaining recovery shall be allocated in accordance with the damages with respect to infringement in the SpinCo Licensees' exclusive field and outside the exclusive field, respectively. For all other Patent Actions, a meeting among in-house intellectual property counsel and vice president-level or higher business representatives from each Party shall be held, and the Parties shall, in good faith, determine an appropriate allocation of any remaining recovery.

ARTICLE IV

TRADEMARK LICENSE

Section 4.1 License to SpinCo Licensees. Subject to the terms and conditions of this Agreement, the Parent Licensors agree to grant, and hereby grant, to the SpinCo Licensees a nonexclusive, nontransferable (except as set forth in Section 8.4), non-sublicensable (except as set forth in Section 4.3), fully paid, royalty-free, irrevocable (except as provided in Section 7.1), worldwide license to use:

(a) the Licensed BD Marks in connection with the SpinCo Business for the two (2)-year period following the Distribution Date (the "BD Mark Term") in substantially the same manner as such Licensed BD Marks are used by the SpinCo Business as of the Effective Date, so long as SpinCo Licensees use commercially reasonable efforts to minimize and discontinue the use of the Licensed BD Marks as soon as reasonably practicable after the Effective Time; provided that the BD Mark Term shall extend if required to meet applicable regulatory or transfer requirements, but for no longer than the minimum period required to meet such regulatory or transfer requirements and only with respect to the portion of the license that is reasonably necessary to meet such regulatory or transfer requirements;

(b) the Licensed Technology Marks solely in connection with the marketing, promotion, distribution and sale of current or future products and services of the SpinCo Business; and

(c) the Licensed Cannula Marks solely in connection with the marketing, promotion, distribution and sale of SpinCo Products incorporating any Product (as such terms are defined in the Cannula Supply Agreement) in accordance with, and during the Term of, the Cannula Supply Agreement.

Without limiting the generality of the foregoing, the SpinCo Licensees will use the Licensed Marks hereunder only in such form and appearance as are described on Exhibit B and only in compliance with Section 4.4.

Section 4.2 Rights of Subsidiaries. All rights and licenses granted in Section 4.1 are granted to SpinCo and to any entity that is a Subsidiary of SpinCo, but only for so long as such entity is a Subsidiary of SpinCo, and will terminate with respect to such entity when it ceases to be a Subsidiary of SpinCo.

Section 4.3 No Sublicensing. The licenses granted in Section 4.1 are personal to the SpinCo Licensees, and, except as set forth herein the SpinCo Licensees shall not assign, transfer, sublicense or in any manner purport to convey all or any part of its rights or obligations in Section 4.1 without the prior written consent of the Parent Licensors, which consent may not be unreasonably withheld by the Parent Licensors; provided that, subject to compliance with Section 4.4, SpinCo Licensees shall be permitted to sublicense the licenses granted in Section 4.1 to distributors to the extent necessary for the use and display of the Licensed Marks by distributors in the ordinary course of providing distribution services. Any purported assignment, sublicense or other transfer of the SpinCo Licensees' rights or obligations in violation of this Section 4.3 shall be deemed a material breach of this Agreement and is void.

Section 4.4 Quality Control.

(a) To comply with the Parent Licensors' quality control standards, the SpinCo Licensees shall: (i) adhere to reasonable levels of quality for the services identified by the Licensed Marks that are at least as high as those standards maintained by the Parent Licensors as of the Effective Date and such other specific reasonable updates to the global standards for the level of quality for the services that are communicated from time to time to the SpinCo Licensees; (ii) comply with all applicable Laws and regulations in any country or other governmental jurisdiction; (iii) comply with Parent Licensors' seller rules with respect to the sale of illegal, regulated or restricted items, which are available on Parent Licensors' website on the Effective Date, including any reasonable amendments to those rules that may be made from time to time thereafter on a global basis; provided that such rules or amendments thereto do not conflict with applicable Law; (iv) use the Licensed Marks in accordance with sound trademark and trade name usage principles and adhere to the global usage and display guidelines that are applicable to the SpinCo Business as of the date of execution of this Agreement, that will be provided to SpinCo Licensees and attached as Exhibit B before the Effective Date and that may be amended from time to time thereafter (except that any more restrictive provision of this Agreement will control over such guidelines); and (v) not alter or modify the appearance of the Licensed Marks in any way from the form(s) of display described on Exhibit B or in use in the SpinCo Business as of immediately before the Effective Date. SpinCo Licensees shall appropriately use ™, ® or any other proprietary rights designation provided by the Parent Licensors in connection with each use or display of the Licensed Marks, consistent with the historic practices of Parent or then-current practices of SpinCo with respect to its own Marks.

(b) The SpinCo Licensees shall not use the Licensed Marks in any commercial manner that would, or would reasonably be anticipated to, reflect adversely on the reputation for quality symbolized by the Licensed Marks. The SpinCo Licensees shall not engage in any commercial conduct that would, or would reasonably be anticipated to, place the Licensed Marks or the Parent Licensors in a negative light or context. The SpinCo Licensees shall not use the Licensed Marks in a commercial manner that would, or would reasonably be anticipated to, devalue, injure, demean, or dilute the reputation of the Licensed Marks or the Parent Licensors. The SpinCo Licensees shall not use the Licensed Marks in any commercial manner that would be reasonably likely to tarnish, disparage or reflect adversely on the Parent Licensors or the Licensed Marks.

(c) The SpinCo Licensees shall not make any material changes to the Licensed Marks without the prior written consent of the Parent Licensors, which consent may be withheld in the Parent Licensors' sole discretion.

(d) The SpinCo Licensees shall not use the Licensed Marks in any manner that is reasonably likely to cause consumer confusion as to the source or origin of any goods or services or imply any endorsement by or ongoing association with Parent Licensors (other than as a result of the Separation and other than as the licensee of the Licensed Marks hereunder); and the SpinCo Licensees shall take commercially reasonable precautions necessary to avoid or prevent such confusion as to affiliation or association occurring (for example, by including, where reasonably appropriate, a statement that the Licensed Marks are owned by Parent Licensors and used by SpinCo Licensees under a license.)

(e) To confirm that the SpinCo Licensees' use of the Licensed Marks complies with this Section 4.4:

(i) SpinCo Licensees shall, upon reasonable request by the Parent Licensors, submit to the Parent Licensors representative samples of publicly disseminated materials bearing any of the Licensed Marks that are in the possession or control of the SpinCo Licensees and, if the Parent Licensors find that use of the Licensed Marks in such samples (A) materially deviates from Parent Licensors' use immediately before the Effective Date or (B) is in any manner other than as expressly permitted herein, the SpinCo Licensees shall, upon notice from the Parent Licensors, immediately take steps necessary to correct the identified deviations or misuse of the respective items; provided, however, that if the defect reasonably poses a threat to public health or safety, or an imminent and material threat to the validity of any of the Licensed Marks or to the goodwill associated therewith, the SpinCo Licensees shall, upon notice from the Parent Licensors, immediately cease and direct others to cease all use of the nonconforming materials and all use of the Licensed Marks in connection therewith.

(ii) Not more than twice per year, Parent Licensors shall have the right to inspect, upon at least thirty (30) calendar days' advance notice and during normal business hours, SpinCo Licensees' records, premises and operations reasonably related to its use of the Licensed Marks; provided, however, that Parent Licensors shall have the right to an inspection under this Section 4.4(e)(ii) upon reasonable notice of no less than twenty-four (24) hours if Parent has a reasonable basis to believe a matter in fact needs prompt review. Parent Licensors shall bear their own costs in relation to any such audit.

Section 4.5 Licensee Indemnity. SpinCo Licensees shall indemnify, hold harmless, compensate and reimburse (and if requested by Parent Licensors, defend) the Parent Licensors and any of their officers, directors, managers and Affiliates from and against any and all losses, costs, liabilities, damages or expenses (including reasonable attorneys' fees and litigation costs) arising from any claim, demand, action, suit or other proceeding brought by an unaffiliated Third Party and arising out of SpinCo Licensees' use of any of the Licensed Marks, except any liability or expense in respect of any infringement of Third-Party rights as a result of SpinCo Licensee's use of the Licensed Marks in accordance with the terms and conditions of this Agreement. SpinCo Licensees shall not settle any dispute involving or affecting the rights in or to the Licensed Marks without the prior written consent of Parent Licensors.

Section 4.6 Ownership of Licensed Marks. SpinCo Licensees acknowledge and agree that Parent Licensors own all right, title and interest in and to the Licensed Marks and the goodwill associated therewith and that, except as expressly provided in this Agreement, SpinCo Licensees have and will hereby acquire no rights in the Licensed Marks. Any and all goodwill associated with or that arises from SpinCo Licensees' use of the Licensed Marks shall inure to the sole and exclusive benefit of Parent Licensors. Without limiting the generality of the foregoing, SpinCo Licensees shall not, directly or indirectly, object to or challenge Parent Licensors' ownership, rights in or use of the Licensed Marks or any registration or application for registration of the Licensed Marks or contest the fact that SpinCo Licensors' rights to use the Licensed Marks under this Agreement are solely those of a Licensee, which rights terminate upon expiration of the respective terms or termination of this Agreement. If, at any time, by operation of law or otherwise, SpinCo Licensees acquire any interest in any of the Licensed Marks or the BD Name and BD Marks, SpinCo Licensees hereby assign, and agree to assign, such interest (along with associated goodwill) to Parent Licensors, and SpinCo Licensees shall, upon Parent Licensors' written request, immediately execute, deliver, and record such documents as are necessary to transfer such interest to Parent Licensors or to cancel any registration made in violation of this Agreement.

ARTICLE V

ADDITIONAL TERMS

Section 5.1 Bankruptcy Rights. All rights and licenses granted to a Party as Licensee hereunder, are, for purposes of section 365(n) of the United States Bankruptcy Code (the "Bankruptcy Code"), licenses of intellectual property within the scope of section 101 of the Bankruptcy Code. The Licensors acknowledge that the Licensees, as licensees of such rights and licenses hereunder, will retain and may fully exercise all of their rights and elections under the Bankruptcy Code. Each Party irrevocably waives all arguments and defenses arising under 11 U.S.C. § 365(c)(1) or successor provisions to the effect that applicable Law excuses such Party from accepting performance from or rendering performance to an entity other than the debtor or debtor-in-possession as a basis for opposing assumption of this Agreement in a case under Chapter 11 of the Bankruptcy Code to the extent that such consent is required under 11 U.S.C. § 365(c)(1) or any successor statute.

Section 5.2 Confidentiality. Notwithstanding the transfer or disclosure of any Technology or grant or retention of any license to a Trade Secret or other proprietary right in confidential information to or by a Party hereunder, each Party agrees on behalf of itself and its Subsidiaries that (a) it (and each of its Subsidiaries) shall treat the Trade Secrets and confidential information of the other Party with at least the same degree of care as they treat their own similar Trade Secrets and confidential information, but in no event with less than reasonable care, and

(b) neither Party (nor any of its Subsidiaries) may use or disclose the Trade Secrets or confidential information, as applicable, licensed or disclosed to it by the other Party under this Agreement, except in accordance with its respective license granted in Article II. Nothing herein will limit either Party's ability to enforce its rights against any Third Party that misappropriates or attempts to misappropriate any Trade Secret or confidential information from it, regardless of whether it is an owner or licensee of such Trade Secret or confidential information. Notwithstanding the foregoing, each Party may disclose the Trade Secrets and confidential information of the other Party pursuant to a valid order or requirement of a court or government agency if: (i) such disclosing Party gives prompt written notice to the other Party to give such other Party the opportunity to prevent disclosure or protect its Trade Secrets and confidential information, and (ii) such disclosing Party shall reasonably cooperate with any efforts by the other Party to seek confidential treatment of the information to be disclosed, provided that such disclosure shall not affect the other Party's obligations to treat the information as a Trade Secret or confidential information.

ARTICLE VI

REPRESENTATIONS OR WARRANTIES

Section 6.1 Parent Intellectual Property. As of the date hereof, Parent does not have knowledge of any Intellectual Property Rights owned, licensed or controlled by Parent or its Subsidiaries as of immediately after the Distribution that, absent a license thereto of the scope granted under this Agreement, would be infringed by the operation of the SpinCo Business immediately following the Distribution in the same manner as such SpinCo Business was operated immediately preceding the Distribution.

Section 6.2 No Other Representations or Warranties. ALL LICENSES AND RIGHTS GRANTED HEREUNDER ARE GRANTED ON AN AS-IS BASIS WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND. NO REPRESENTATIONS OR WARRANTIES WHATSOEVER, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, CUSTOM, TRADE, NON-INFRINGEMENT, NON-VIOLATION OR NON-MISAPPROPRIATION OF THIRD-PARTY INTELLECTUAL PROPERTY, ARE MADE OR GIVEN BY OR ON BEHALF OF A PARTY. ALL SUCH REPRESENTATIONS AND WARRANTIES, WHETHER ARISING BY OPERATION OF LAW OR OTHERWISE, ARE HEREBY EXPRESSLY EXCLUDED AND DISCLAIMED.

Section 6.3 General Disclaimer. Except as set forth in Section 6.1, nothing contained in this Agreement shall be construed as:

(a) a warranty or representation by either Party as to the validity, enforceability or scope of any Intellectual Property Rights;

(b) an agreement by either Party to maintain any Intellectual Property Rights in force;

(c) an agreement by either Party to bring or prosecute actions or suits against any Third Party for infringement of Intellectual Property Rights or any other right, or conferring upon either Party any right to bring or prosecute actions or suits against any Third Party for infringement of Intellectual Property Rights or any other right;

(d) conferring upon either Party any right to use in advertising, publicity or otherwise any trademark, trade name or names, or any contraction, abbreviation or simulations thereof, of the other Party, other than as permitted hereunder;

(e) conferring upon either Party by implication, estoppel or otherwise, any license or other right, except the licenses and rights expressly granted hereunder; or

(f) an obligation to provide any technical information, know-how, consultation, technical services or other assistance or deliverables to the other Party.

Section 6.4 Limitation of Liability. IN NO EVENT SHALL EITHER PARTY, ITS AFFILIATES OR THEIR RESPECTIVE REPRESENTATIVES BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES ARISING FROM THIS AGREEMENT.

ARTICLE VII

TERM

Section 7.1 Term and Termination.

(a) Except as expressly set forth herein, the term of this Agreement shall commence on the Effective Date and shall continue until the expiration of the last-to-expire of the Intellectual Property Rights licensed under this Agreement, if ever; provided that (i) the term of the Patent licenses granted pursuant to Section 2.1(a), Section 2.2(a) and Section 2.3(a), respectively, shall end upon the expiration of the last Patent licensed thereunder, and (ii) the term of the licenses granted in Exhibit A shall be subject to Section 8.5.

(b) If SpinCo Licensee is in material breach of Section 4.4 or any other provision of Article IV and such breach continues uncured for a period of sixty (60) days after SpinCo Licensees' receipt of notice from Parent Licensor of such breach (or, if such breach is not reasonably curable in such sixty (60)-day period, if SpinCo Licensee is not using commercially reasonable efforts to cure or remedy such breach thereafter), then Parent Licensor may send written notice of such uncured material breach (a "Uncured Breach Notice") to SpinCo Licensee and attempt to resolve such breach through good-faith discussion by a committee comprising an equal number of members designated by each Party for such purpose (the "Steering Committee"). The Steering Committee shall meet in person to conduct good-faith negotiations during the ten (10)-business day period following the Uncured Breach Notice (such period, as it may be extended by mutual written consent of the Parties, being the "Discussion Period"). If the breach is not resolved after the end of the Discussion Period, the Parties shall promptly escalate such breach to the chief executive officer of each Party to attempt to resolve such breach through good-faith discussions. If the chief executive officers fail to resolve such breach within ten (10) business days, then Parent Licensor may terminate, partially or in its entirety, the licenses granted to the SpinCo Licensees under Section 4.1 only with respect to the portion of the license that was the subject of such uncured material breach.

(c) Termination of the licenses granted by a Party or its Subsidiaries as a Licensor shall not in any way affect or limit the licenses granted to such Party or its Subsidiaries as a Licensee.

Section 7.2 Licensee Post-Term Matters. Upon the expiration or termination of the licenses granted in Section 4.1 (partially or in its entirety) for any reason, all rights granted to the SpinCo Licensees under such license shall revert to the Parent Licensors, and the SpinCo Licensees shall, immediately upon expiration and as soon as possible, but no later than within thirty (30) days of termination, cease all use of the Licensed Marks; provided, however, that SpinCo Licensees may continue to sell off inventory (including both finished and unfinished inventory and literature or other printed material) containing such Licensed Marks applied to such products created, and for the related regulatory registrations for such inventory, before the expiration or termination (as applicable) of the applicable license.

Section 7.3 Survival. The terms and conditions of the following provisions will survive termination of this Agreement: Article I, Section 5.2, Article VI, Section 7.2, this Section 7.3 and Article VIII. The termination of this Agreement will not relieve either Party of any Liability under this Agreement that accrued before such termination.

ARTICLE VIII

GENERAL PROVISIONS

Section 8.1 No Obligation. Nothing set forth herein shall restrict either Party from transferring, assigning or licensing any Intellectual Property Rights owned by it and licensed to the other Party hereunder; provided that any transfer or assignment of any Intellectual Property Rights licensed to a Party hereunder shall be subject to the licenses granted in this Agreement.

Section 8.2 Amendment and Waivers. This Agreement may not be modified or amended, except by an instrument or instruments in writing signed by the Party against whom enforcement of any such modification or amendment is sought. Any Party may, only by an instrument in writing, waive compliance by the other Party with any term or provision of this Agreement on the part of such other Party to be performed or complied with. The waiver by any Party of a breach of any term or provision of this Agreement shall not be construed as a waiver of any subsequent breach. No failure or delay by any Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

Section 8.3 Notices. All notices and other communications to be given to any Party hereunder shall be sufficiently given for all purposes hereunder if in writing and delivered by hand, courier or overnight delivery service, or three (3) days after being mailed by certified or registered mail, return receipt requested, with appropriate postage prepaid, or by electronic mail ("e-mail") transmission (so long as a receipt of such e-mail is requested and received), and shall be directed to the address set forth below (or at such other address as such Party shall designate by like notice):

(a) If to Parent (or any of its Subsidiaries in their capacity as either a Licensor or a Licensee):

Becton, Dickinson and Company
1 Becton Drive
Franklin Lakes, New Jersey 07417
Attention: Joseph LaSala
Chief Counsel - Transactions/M&A
E-mail: joseph_lasala@bd.com

(b) If to SpinCo (or any of its Subsidiaries in its capacity as either a Licensor or Licensee):

Embecta Corp.
300 Kimball Drive
Parsippany, New Jersey 07054
Attention: Jeff Mann
Senior Vice President, General Counsel, Head of Corporate Development and Corporate Secretary
E-mail: jeff.mann@bd.com; jeff.mann@embecta.com

Section 8.4 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of and be enforceable by the Parties and their respective permitted successors and assigns; provided that neither this Agreement nor any of the rights and benefits of a Licensee Party hereunder may be assigned to or assumed by a Third Party (whether by operation of Law or otherwise) without the express prior written consent of the other Party. Notwithstanding the foregoing, no such consent shall be required for the assignment or assumption of a Party's rights, licenses or obligations under Article II and Article IV in whole or in relevant part, in connection with, or as a result of a merger, acquisition, restructuring or reorganization of a Party (such Party, the "Acquired Party") or the sale or other disposition of a substantial business or substantial assets (such as product lines or service lines) of a Party or its Subsidiaries to which this Agreement relates (such business or assets, the "Acquired Business"); provided that the resulting, surviving or transferee Person or acquirer of the Acquired Business (the "Acquiring Party") assumes all the applicable obligations of the Acquired Party by operation of Law or by express assignment, as the case may be. Any Party that is assigning its rights, licenses or obligations pursuant to the prior sentence shall provide written notice to the other Party of any such assignment no later than promptly following such assignment

Section 8.5 MLIP Termination on Change of Control. If SpinCo consummates a Change of Control with a Third Party or a sale or other disposition to a Third Party of the Acquired Business, and such Third Party is a competitor of the Parent Licensors in the field of cannula-bearing devices, then Parent will have the right, in its sole discretion, to terminate in their entirety the licenses to Manufacturing Line IP set forth in Exhibit A (it being understood that such termination shall not include the licenses granted under Section 2.2, Section 2.3 and Article IV). SpinCo shall

provide written notice to Parent of any such Change of Control, sale or other disposition no later than promptly following consummation of such transaction. If SpinCo makes a written request to Parent seeking Parent's determination whether, at such the time of such request, a Third Party is a competitor of the Parent Licensors in the field of cannula-bearing devices, Parent will use commercially reasonable efforts to respond to such request reasonably promptly.

Section 8.6 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, 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 hereto. Upon such a determination, the Parties shall negotiate in good faith to modify 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 8.7 Governing Law; Jurisdiction and Forum; Waiver of Jury Trial.

(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. The Parties expressly waive any right they may have, now or in the future, to demand or seek the application of a governing Law other than the Law of the State of Delaware. In addition, each of the Parties hereto irrevocably: (i) submits to the personal jurisdiction of the Delaware Court of Chancery in and for New Castle County, or in the event (but only in the event) that such Delaware Court of Chancery does not have subject matter jurisdiction over such dispute, the United States District Court for the District of Delaware, or in the event (but only in the event) that such United States District Court also does not have jurisdiction over such dispute, any Delaware State court sitting in New Castle County (and in each case, appellate courts therefrom), in the event any dispute (whether in contract, tort or otherwise) arises out of this Agreement or the transactions contemplated hereby; (ii) agrees that it will not attempt to deny or defeat such personal jurisdiction by motion or other request for leave from any such court; (iii) waives any objection to the laying of venue of any Action relating to this Agreement or the transactions contemplated hereby in such court; (iv) waives and agrees not to plead or claim in any such court that any Action relating to this Agreement or the transactions contemplated hereby brought in any such court has been brought in an inconvenient forum; and (v) agrees that it will not bring any Action relating to this Agreement or the transactions contemplated hereby in any court other than the Delaware Court of Chancery in and for New Castle County, or in the event (but only in the event) that such Delaware Court of Chancery does not have subject matter jurisdiction over such Action, the United States District Court for the District of Delaware, or in the event (but only in the event) that such United States District Court also does not have jurisdiction over such Action, any Delaware State court sitting in New Castle County (and, in each case, appellate courts therefrom). Each Party agrees that service of process upon such Party in any such Action shall be effective if notice is given in accordance with Section 8.3.

(b) EACH PARTY TO THIS AGREEMENT WAIVES TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY ANY OF THEM AGAINST THE OTHER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT, THE OTHER ANCILLARY AGREEMENTS, THE SEPARATION AND DISTRIBUTION AGREEMENT, OR ANY OTHER AGREEMENTS EXECUTED IN CONNECTION HEREWITH OR THEREWITH OR THE ADMINISTRATION HEREOF OR THEREOF OR THE SALE OR ANY OF THE OTHER TRANSACTIONS CONTEMPLATED HEREIN OR THEREIN. NO PARTY TO THIS AGREEMENT SHALL SEEK A JURY TRIAL IN ANY LAWSUIT, PROCEEDING, COUNTERCLAIM OR ANY OTHER LITIGATION PROCEDURE BASED UPON, OR ARISING OUT OF, THIS AGREEMENT, THE OTHER ANCILLARY AGREEMENTS, THE SEPARATION AND DISTRIBUTION AGREEMENT, OR RELATED INSTRUMENTS. NO PARTY WILL SEEK TO CONSOLIDATE ANY SUCH ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED. EACH PARTY TO THIS AGREEMENT CERTIFIES THAT IT HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS SET FORTH IN THIS SECTION 8.7(b). NO PARTY HAS IN ANY WAY AGREED WITH OR REPRESENTED TO ANY OTHER PARTY THAT THE PROVISIONS OF THIS SECTION 8.7(b) WILL NOT BE FULLY ENFORCED IN ALL INSTANCES.

Section 8.8 Counterparts. This Agreement may be executed in one or more counterparts, and by the different parties in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement. Delivery of an executed counterpart of a signature page to this Agreement by fax or other electronic method shall be as effective as delivery of a manually executed counterpart of this Agreement.

Section 8.9 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, Exhibit and Schedule are references to the Articles, Sections, paragraphs, Exhibits and Schedules to this Agreement unless otherwise specified; (c) the terms "hereof," "herein," "hereby," "hereto" and derivative or similar words refer to this entire Agreement, including the Schedules and Exhibits hereto; (d) references to "$" shall mean U.S. dollars, and any amounts that are denominated in a foreign currency shall be deemed to be converted into U.S. dollars at the applicable exchange rate in effect at 9:00 a.m. New York City time (as reported by Bloomberg L.P.) on the date for which such U.S. dollar amount is to be calculated; (e) the word "including" and words of similar import when used in this Agreement and the Ancillary Agreements shall mean "including without limitation," unless otherwise specified; (f) the word "or" need not be exclusive; (g) references to "written" or "in writing" include in electronic form; (h) provisions shall apply, when appropriate, to successive events and transactions; (i) Parent and SpinCo have each participated in the negotiation and drafting of this Agreement and the Ancillary Agreements, and if an ambiguity or question of interpretation should arise, this Agreement and the Ancillary Agreements shall be construed as if drafted jointly by the parties thereto, and no presumption or burden of proof shall arise favoring or burdening either party by virtue of the authorship of any of the provisions in this Agreement or the Ancillary Agreements; (j) references to any statute shall be deemed to refer to such statute as amended through the date hereof and to any rules or regulations promulgated thereunder as amended through

the date hereof (provided that, for purposes of any representations and warranties contained in this Agreement that are made as of a specific date, references to any statute shall be deemed to refer to such statute and any rules or regulations promulgated thereunder as amended through such specific date); (k) references to any Contract are to that Contract as amended, modified or supplemented from time to time in accordance with the terms hereof and thereof; (l) a reference to any Person includes such Person's successors and permitted assigns; (m) any reference to "days" shall mean calendar days unless Business Days are expressly specified; (n) 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; and (o) amounts used in any calculations for purposes of this Agreement may be either positive or negative, it being understood that the addition of a negative number shall mean the subtraction of the absolute value of such negative number, and the subtraction of a negative number shall mean the addition of the absolute value of such negative number. Unless otherwise specified, any reference in this Agreement to a specified date shall mean 9:00 a.m. New York City time on such date.

Section 8.10 No Third-Party Beneficiaries. This Agreement and the Schedules hereto are not 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.

Section 8.11 Entire Agreement. This Agreement, the other Ancillary Agreements, and the Separation and Distribution Agreement constitute the entire agreement and understanding among the Parties with respect to the subject matter hereof and thereof and supersede all prior agreements and understandings relating to such subject matter. 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. To the extent that any provision of this Agreement conflicts with a provision of the Separation and Distribution Agreement, the provisions of this Agreement shall be deemed to control with respect to the subject matter hereof. However, nothing contained herein shall limit either Party's obligations under the other Ancillary Agreements and the Separation and Distribution Agreement.

Section 8.12 Specific Performance. The Parties agree that irreparable damage, for which monetary damages (even if available) would not be an adequate remedy, may occur if the Parties hereto do not perform any provision of this Agreement in accordance with its specified terms or otherwise breach such provisions. Accordingly, the Parties acknowledge and agree that the Parties shall be entitled to seek an injunction, specific performance and other equitable relief to prevent breaches or threatened breaches of this Agreement and to enforce specifically the terms and provisions hereof, in addition to any other remedy to which they are entitled in Law or in equity.

Section 8.13 Relationship of the Parties. Nothing contained herein shall be deemed to create a partnership, joint venture or similar relationship between the Parties. Neither Party is the agent, employee, joint venturer, partner, franchisee or representative of the other Party. Each Party specifically acknowledges that it does not have the authority to, and shall not, incur any obligations or responsibilities on behalf of the other Party. Notwithstanding anything to the contrary in this Agreement, each Party (and its officers, directors, agents, employees and members) shall not hold themselves out as employees, agents, representatives or franchisees of the other Party or enter into any agreements on such Party's behalf.

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

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first written above.

BECTON, DICKINSON AND COMPANY

By: /s/ Christopher J. DelOrefice
Name: Christopher J. DelOrefice
Title: Executive Vice President and Chief Financial Officer

EMBECTA CORP.

By: /s/ Jacob Elguicze
Name: Jacob Elguicze
Title: Chief Financial Officer

EXHIBIT A

MANUFACTURING LINE IP

ARTICLE I – DEFINITIONS

Section 1.1 Definitions. As used in this Exhibit A, the following terms have the meanings set forth below. Unless the context otherwise requires, capitalized terms that are not defined in this Exhibit A shall have the meanings set forth in the Agreement.

(a) "Approved Facilities" means (i) the facilities in Holdrege, Nebraska, Dun Laoghaire, Ireland, and Suzhou, China, with manufacturing lines containing Manufacturing Line IP as of the Separation, and (ii) any facility approved by Parent following the date hereof in accordance with Section 2.3.

(b) "Cannula Supply Agreement" means the Cannula Supply Agreement, entered into as of March 31, 2022, by and between Parent and SpinCo.

(c) "Cartridge" has the meaning set forth in the Cannula Supply Agreement.

(d) "Major Supply Failure" has the meaning set forth in the Cannula Supply Agreement.

(e) "Major Supply Failure Termination Event" has the meaning set forth in the Cannula Supply Agreement.

(f) "Manufacturing Line IP" or "MLIP" shall mean the Technology of the cannulation systems and processes within the syringe and pen needle lines at the SpinCo facilities in Holdrege, Nebraska, Dun Laoghaire, Ireland, and Suzhou, China, as of the Separation Time. Such Technology shall include, for avoidance of doubt, [* * *]. For clarity, (i) systems or processes, as of the Distribution Date, of the manufacturing lines of the SpinCo Business that produce the Zodiac patch pump that are not part of such syringe and pen needle lines (herein "Zodiac Line IP") shall not be considered Manufacturing Line IP hereunder, and (ii) the mere identity of a vendor associated with MLIP is not itself MLIP.

(g) "MLIP Licensed Other IP" means the Intellectual Property Rights (other than (i) Patents, Marks and Internet Properties and (ii) the SpinCo Intellectual Property) that are owned by Parent or its Subsidiaries as of immediately after the Distribution and embodied in or by any of the Manufacturing Line IP.

(h) "MLIP Licensed Patents" means the Patents owned by Parent or members of its Group as of the Separation Time that, absent a license thereto of the scope granted under Section 2.1 and Section 2.2, would be infringed by the use of the Manufacturing Line IP in accordance with this Agreement or the Cannula Supply Agreement. For the purposes of the foregoing determination, a Patent issued after the Separation Time on a Patent application or invention disclosure owned by Parent or members of its Group as of the Separation Time, shall be deemed to have been issued immediately prior to the Separation Time.

[***] = [CONFIDENTIAL PORTION HAS BEEN OMITTED BECAUSE IT (I) IS NOT MATERIAL AND (II) WOULD BE COMPETITIVELY HARMFUL IF PUBLICLY DISCLOSED.

(i) "Net Sales" shall mean the total of the gross invoice prices charged and received by SpinCo Licensees or Affiliates for the sale of a Royalty Product (whether to end-user or distributor, as the case may be), less only the sum of the following deductions, but only to the extent that they are actually applicable to the disposition of such Royalty Product and taken by SpinCo Licensee:

(i) cash or quantity discounts or rebates (including distributor chargebacks and payment term discounts) actually allowed;

(ii) sales, use, tariff, import/export duties or other excise taxes imposed on particular sales, including value added tax (excepting income taxes);

(iii) service fees;

(iv) reasonable write offs due to non-payment;

(v) transportation charges, including insurance, freight, logistics or other such charges; and

(vi) allowances or credit actually granted to customers because of rejections or returns.

The following principles shall apply to the calculation of Net Sales:

(i) Except as noted above, no deductions shall be made for commissions paid to individuals or companies, whether independent sales agents or persons or companies regularly employed by SpinCo Licensee or its Affiliates or distributors.

(ii) (If SpinCo Licensee or any Affiliate is the End-User, all Royalty Product used (except amounts used by SpinCo Licensee or its Affiliates for internal research and development or demonstration purposes, for use in clinical trials, or for bona-fide donations) shall be included in Net Sales at the price that would have been paid for transfer of such Royalty Product in an arm's-length transaction with an unaffiliated Third Party in the same situation, provided always that the transfer of Royalty Products from SpinCo Licensee to its Affiliates, or vice versa, for subsequent resale will not constitute sale to Third Parties.

(iii) If material volumes of Royalty Products are routinely transferred at no cost or at an artificial price substantially below customary discounted prices in arm's-length transactions with unaffiliated entities (as determined based on relative pricing vis a vis competitors and historical pricing of the same Royalty Products (after giving effect to any other reasonable economic conditions)), Net Sales will be imputed based on average sales prices for Royalty Products within the applicable territory or territories in which such unaffiliated entities reside, provided that there will be no imputed revenues from promotional free samples, bona-fide donations (as noted above), free goods, or other marketing programs whereby customary amounts of Royalty Products are provided free of charge to promote sales of Royalty Products.

(iv) Unless otherwise specified herein, Net Sales will be calculated in accordance with U.S. Generally Accepted Accounting Principles and consistent with SpinCo Licensee's accounting policies.

(j) "Product" has the meaning set forth in the Cannula Supply Agreement.

(k) "Royalty Products" has the meaning set forth in Section 3.3.

(l) "SpinCo Product" has the meaning set forth in the Cannula Supply Agreement.

(m) "Zodiac Line IP" has the meaning set forth in Section 1.1(f).

ARTICLE II – MANUFACTURING LINE IP LICENSES

Section 2.1 License Grant to Manufacture with Parent Cannula. Subject to the terms and conditions of this Agreement, including this Exhibit A, the Parent Licensors agree to grant, and hereby grant, to the SpinCo Licensees a nonexclusive, non-sublicensable, royalty-free, fully paid, nontransferable (except as set forth in Section 8.4 of the Agreement), irrevocable (except as provided in Section 7.1(a) and Section 8.5 of the Agreement) license under (a) the MLIP Licensed Patents to practice any method, process or procedure claimed in the MLIP Licensed Patents, and (b) the MLIP Licensed Other IP to internally use (subject to Section 5.2 of the Agreement and Section 4.1 of this Exhibit) the Manufacturing Line IP, in each case of clause (a) and clause (b), solely in connection with the manufacture of SpinCo Products (as defined in the Cannula Supply Agreement) by SpinCo Licensees that contain Products (as defined in the Cannula Supply Agreement) and are assembled in whole or in part on manufacturing lines containing Manufacturing Line IP in the Approved Facilities.

Section 2.2 License Grant to Manufacture with Third Party-Sourced Cannula. Subject to the terms and conditions of this Agreement, including this Exhibit A and in particular Section 3.8 hereof, the Parent Licensors agree to grant, and hereby grant, to the SpinCo Licensees a nonexclusive, non-sublicensable, royalty-bearing, nontransferable (except as set forth in Section 8.4 of the Agreement), irrevocable (except as provided in Section 7.1(a) and Section 8.5 of the Agreement) license under (a) the MLIP Licensed Patents to practice any method, process or procedure claimed in the MLIP Licensed Patents, and (b) the MLIP Licensed Other IP to internally use (subject to Section 5.2 of the Agreement and Section 4.1 of this Exhibit) the Manufacturing Line IP, in each case of clause (a) and clause (b), solely in connection with the manufacture of SpinCo Products by SpinCo Licensees that contain Third Party-sourced cannula and are assembled in whole or in part on manufacturing lines containing Manufacturing Line IP in the Approved Facilities.

Section 2.3 Approved Facilities. The SpinCo Licensees are prohibited from moving the Manufacturing Line IP and/or elements of the manufacturing lines embodying Manufacturing Line IP out of the Approved Facilities, or from duplicating the Manufacturing Line IP and/or elements of the manufacturing lines embodying Manufacturing Line IP, outside the Approved Facilities, without Parent's prior written consent, which consent will not be unreasonably withheld. If Parent approves the SpinCo Licensees' request to move the

Manufacturing Line IP and/or elements of the manufacturing lines embodying Manufacturing Line IP to a new facility, then such facility shall be deemed added to the Approved Facilities. Notwithstanding the preceding language, the manufacturing lines of the SpinCo Business that produce the Zodiac patch pump, as existing at the Distribution Date, may be transferred to a contract manufacturer without prior consent, provided SpinCo provides Parent notice of such activity and provided that the protections set forth in Article IV apply to the extent MLIP is present in such lines.

Section 2.4 Zodiac Line IP. For clarity, the licenses and rights granted to SpinCo Licensees with respect to Parent Dual-Use Patents in Section 2.3(a) of the Agreement and with respect to Parent Licensed Other IP in Section 2.3(b) of the Agreement include rights to Zodiac Line IP.

ARTICLE III – SUPPLY & PAYMENTS

Section 3.1 Notice and Selection of Third-Party Cannula Supplier. SpinCo shall promptly provide written notice to Parent at least sixty (60) days prior to the date on which any SpinCo Licensee plans to begin commercial manufacturing SpinCo Products incorporating Third Party sourced cannula assembled in whole or in party on manufacturing lines containing Manufacturing Line IP in the Approved Facilities. Parent shall have a right to consent to the supplier of such Third Party sourced cannula if such supplier is listed on Schedule 3.1.

Section 3.2 Technology Access Fee. In partial consideration for the rights granted by Parent Licensors to SpinCo Licensees hereunder, SpinCo shall pay to Parent a one-time, nonrefundable and noncreditable upfront payment in an amount equal to five million dollars ($5,000,000), by wire transfer of immediately available funds to an account specified by Parent, within thirty (30) days after the date any SpinCo Licensee begins commercial manufacturing Spinco Products using a Third Party sourced cannula and on a manufacturing line incorporating or designed or built using Manufacturing Line IP.

Section 3.3 Volume-Based Royalty (for Third-Party Sourced Cannula). SpinCo shall pay to Parent a quarterly royalty of two percent (2%) of Net Sales of each finished SpinCo Product (*e.g.*, pen needles, syringes, etc.) manufactured using a Third Party sourced cannula and on a manufacturing line incorporating or designed or built using Manufacturing Line IP (such finished products, "Royalty Products").

Section 3.4 New Manufacturing Lines.

(a) SpinCo shall notify Parent within ninety (90) days of when it initiates a process to design and build a new pen needle or syringe manufacturing line ("New Manufacturing Line"). SpinCo, at its option, may initiate a pre-approval process with respect to such New Manufacturing Line. Such pre-approval process shall involve the following:

(i) SpinCo shall present to Parent a process describing in detail the project plan for such New Manufacturing Line, including the plans for ensuring the New Manufacturing Line is not designed or built using, and there is no unauthorized disclosure of, MLIP, e.g., project plan, clean team approach, involved associates, vendors, etc.

(ii) SpinCo and Parent shall discuss such project plan and shall work in good faith to mutually agree upon a process with sufficient protections to ensure the New Manufacturing Line is not designed or built using MLIP, including use by existing vendors of MLIP in their possession.

(iii) Upon completion of the New Manufacturing Line, Parent shall be entitled to a commercially reasonable audit to ensure compliance with the project plan (given effect to SpinCo's confidential information including use of a clean team by Parent). To the extent the New Manufacturing Line was designed and built in compliance with the plan, and assuming no unauthorized disclosure or use of MLIP outside the plan, such New Manufacturing Line shall be considered to be a manufacturing line designed or built ***without*** using Manufacturing Line IP.

(b) Notwithstanding Section 5.2 of this Agreement, (i) the restrictions on use of MLIP for designing or building a New Manufacturing Line shall not apply to, and (ii) the payments under Section 3.2 or Section 3.3 shall not be triggered when the only MLIP used to design or build a New Manufacturing Line is, MLIP that SpinCo can demonstrate is: (A) in the public domain or generally available to the public, other than as a result of a disclosure by SpinCo, its Subsidiaries or any of their Representatives in violation of this Agreement or Ancillary Agreements, (B) lawfully acquired by SpinCo (free of any confidentiality obligation or other contractual, legal or fiduciary obligation of confidentiality at the time of such acquisition) from a Third Party who has a lawful right to disclose it, or (C) independently developed or generated by SpinCo or by a Third Party by persons without use of, or other reliance upon, MLIP.

Section 3.5 Manner of Payment. All payments to be made by SpinCo hereunder shall be made in United States dollars by wire transfer of immediately available funds to such bank account as shall be designated by Parent, as applicable. Amounts on which royalties or other payments are calculated that are in currencies other than U.S. dollars shall be converted to U.S. dollars based on the average rate of exchange as quoted in the *Wall Street Journal* for each fiscal quarter for which a payment is due. If not so published, the Parties may agree on a substitute publication. If, due to restrictions or prohibitions imposed by national or international authority, payments cannot be made as provided in this Agreement, the Parties will consult with a view to finding a prompt and acceptable solution. All costs of payment, such as wire transfer, shall be borne solely by SpinCo Licensees and may not be credited or withheld.

Section 3.6 Sales Reports and Royalty Calculations. Beginning forty-five (45) days after any notice provided under Section 3.1, and thereafter within forty-five (45) days after the end of each quarter, to the extent applicable, SpinCo shall provide to Parent a written report showing the amount of royalty due for such quarter. Royalty payments for each quarter shall be due at the same time as such written report for the quarter. With each quarterly payment, SpinCo shall deliver to Parent a full and accurate accounting to include at least the following information: (i) the total gross sales for each Royalty Product and the calculation of Net Sales from such gross sales; and (ii) the calculation of royalties payable in United States dollars which shall have accrued hereunder in respect of such Net Sales; (iii) the exchange rates used if any; and (iv) any credits deducted based on overpayments of royalties in prior quarters, such as for rebates, credits or other adjustments to Net Sales. All payments not made when due hereunder shall accrue interest on an annual basis at the Prime Rate. "Prime Rate" shall mean the average prime rate published in the *Wall Street Journal* during the relevant period (calculated by dividing (a) the sum of the prime rates for each of the days during the relevant period, by (b) the number of days in the relevant period).

Section 3.7 Sales Record Audit. SpinCo shall keep, and shall ensure that each of its Affiliates keeps, complete, true and accurate books of accounts and records in accordance with GAAP sufficient to determine and establish the amounts payable incurred under this Agreement, and compliance with the other terms and conditions of this Agreement. Such books of accounting of SpinCo and its Affiliates shall be open for inspection not more than once per calendar year by an independent certified public accountant selected by Parent and as to which SpinCo has no reasonable objection, for the purpose of verifying royalty statements and payments for compliance with this Agreement for any period within the preceding three (3) calendar years. The independent certified public accountant shall disclose to Parent only the amounts that the independent auditor believes to be due and payable hereunder to Parent and details concerning any discrepancy from the amount paid (including the reasons therefor), and shall disclose no other information revealed in such audit.

Section 3.8 Cannula Cartridge. Parent and its Affiliates shall have no obligation hereunder or pursuant to the other Ancillary Agreements and the Separation and Distribution Agreement to supply a Cartridge to any Third-Party cannula supplier, nor shall SpinCo have the right to supply a Cartridge to any Third-Party cannula supplier. Notwithstanding the foregoing, Parent shall provide, upon the request and expense of SpinCo, assistance to SpinCo, as follows:

Option 1: Parent and its Affiliates shall cooperate with SpinCo to design an interface for a Third-Party cannula holder to work directly with the hopper; or

Option 2: If Option 1 is not feasible, Parent and its Affiliates shall cooperate with SpinCo to design an off-line cannula transfer to allow the Third Party-sourced cannula to be transferred from the Third-Party cannula holder to Parent's Cartridge at an Approved Facility.

Any and all Intellectual Property Rights in the design and development by Parent and its Affiliates under this Section 3.8 shall be owned solely and exclusively by Parent and its Affiliates and shall be considered MLIP. The SpinCo Licensees hereby assign and agree to assign to Parent any such Intellectual Property Rights to the extent any ownership rights in such Intellectual Property Rights vest in SpinCo Licensees.

Parent Licensors agree to grant, and hereby grant, to the SpinCo Licensees a nonexclusive, non-sublicensable, royalty-free, fully paid, nontransferable (except as set forth in Section 8.4 of the Agreement), irrevocable (except as provided in Section 7.1(a) and Section 8.5 of the Agreement) license under any such Intellectual Property Rights to use, as applicable, the interface or the off-line cannula transfer designed and developed under this Section 3.8 in connection with the manufacture of SpinCo Products by SpinCo Licensees that contain Third Party-sourced cannula and are assembled in whole or in part on manufacturing lines containing Manufacturing Line IP in the Approved Facilities controlled, operated and directed by SpinCo Licensees.

Section 3.9 Upon Major Supply Failure. In the event of a Major Supply Failure (as defined in the Cannula Supply Agreement) that is not a Major Supply Failure Termination Event (as defined in the Cannula Supply Agreement) under Section 6.4(e) of the Cannula Supply Agreement, the SpinCo Licensees' exclusive remedy under this Agreement is a waiver of the upfront and incremental royalty fees under Section 3.2 or Section 3.3, as applicable, otherwise due to Parent on cannula sourced from a Third Party during such Major Supply Failure; provided that such waiver is applicable for a maximum of two (2) years from the date of the commencement of such Major Supply Failure (it being understood that if Third Party-sourced cannula are being used with Manufacturing Line IP following such two (2) year waiver, then the upfront payment under Section 3.2 or Section 3.3 (if not already paid by SpinCo prior to the Major Supply Failure) will become due from SpinCo to Parent within thirty (30) days of the end of such waiver, and royalty fees under Section 3.3 will be due on sales of such Third Party-sourced cannula following the end of such waiver, as further described herein).

Section 3.10 Retained Cannula IP. The Parties agree that the sale of Product to SpinCo under the Cannula Supply Agreement shall constitute an exhaustion of Parent's Patent rights in Retained Cannula IP pursuant to the exhaustion or first sale doctrine under U.S. law, and any equivalent or similar doctrines under the law of any jurisdiction. Notwithstanding the foregoing, the sale of SpinCo Products with Product supplied from BD or of Royalty Products are subject to the terms and conditions of the Cannula Supply Agreement (including being sold by or on behalf of SpinCo for use for the Permitted Purposes).

ARTICLE IV – ADDITIONAL TERMS

Section 4.1 Manufacturing Line IP Security & Restrictions. Without limiting the generality of Section 5.2 of the Agreement, SpinCo Licensees shall comply with the following:

(a) *Restrictions/Obligations*:

(i) SpinCo Licensees will use best practices to protect the MLIP, to the extent consistent with Parent practices as of the Distribution Date.

(ii) Access (in-person or electronic) to MLIP will be limited to SpinCo Licensees' employees and contractors (including Third-Party maintenance contractors) with need to know/need to access.

(iii) All SpinCo Licensees' employees from other locations visiting sites containing MLIP will be required to be recorded in a logbook (to be retained for up to three (3) years for audit purposes).

(iv) All Third-Party visitors will be required to be under contractual obligations of confidentiality or to sign a confidentiality agreement before being allowed entry to any areas where MLIP may be disclosed (copy to be retained for audit purposes), with confidentiality obligations with respect to Trade Secrets continuing in perpetuity).

(v) MLIP will not be shown to or shared with Third Parties, subject to: (A) a new vendor can be hired to service aspects of MLIP subject to Section 4.1(a)(iv), (B) should SpinCo Licensees need to duplicate a cannulization line, a vendor may be shown the MLIP only after advance written notice to Parent, and (C) regulatory agencies may view, if necessary, the MLIP, provided that Parent is given (to the extent feasible) at least five (5) business days advance notice.

(vi) In no event will (A) a contract manufacturer, or (B) the companies listed in Schedule 4.1, be allowed to view, or otherwise access, information containing MLIP. SpinCo Licensees will require confidentiality agreements between a SpinCo Licensee and any potential strategic partners.

(vii) SpinCo Licensees will require agreements/undertakings between a SpinCo Licensee and its employees who have access to MLIP, either as stand-alone or as employment agreements. Such agreements will be retained in a central location or HR system.

(viii) SpinCo Licensees will have a Trade Secret policy, regular Trade Secret training, and regular Trade Secret assessment/audits of its manufacturing sites.

Section 4.2 Parent Audits of SpinCo.

(a) Prior to, or within ninety (90) days of, the Distribution Date, Parent Licensors will perform an initial virtual or in-person (at Parent Licensors' option) Trade Secret audit of SpinCo Licensees' manufacturing locations, and SpinCo Licensees will implement reasonable recommendations arising from such audits consistent with prior practices of Parent and best practices. SpinCo Licensees will also allow Parent Licensors to participate in the development of trade secret training at each location in conjunction with, or promptly after, each such audit.

(b) Parent Licensors will be entitled to annual audits of SpinCo Licensees' sites to confirm adherence to restrictions and best practices, and semiannual audits of the Suzhou, China, site under best practices for confidentiality arrangements and clean team restrictions.

(c) SpinCo Licensees will designate a single person at each site at which MLIP is used responsible for compliance with the restrictions, and a single person responsible for controlling system access to MLIP (*e.g.*, via SAP).

(d) Audit recommendations by Parent Licensors consistent with best practices will be given reasonable consideration for adoption, and Parent's prior and then-current practices will be given reasonable consideration for adoption; in the case of disputes over such adoption, executives of the parties will meet within ten (10) Business Days to try to resolve the dispute, but if not resolved after thirty (30) Business Days, either party may submit the matter to WIPO Expedited Arbitration.

Section 4.3 Notifications/Breaches. SpinCo Licensees will be required to notify Parent Licensors upon events involving potential or actual disclosure of MLIP to Third Parties, including breach of restrictions, misappropriation, compelled disclosure, or change of control. SpinCo Licensees will promptly notify Parent of all breaches, misuse, misappropriation, or other unauthorized disclosures of MLIP, whether or not considered material, along with its actions or plans to cure such breach.

Section 4.4 Consequences for Breach.

(a) SpinCo Licensees shall indemnify, defend and hold harmless Parent, its Affiliates and its and their respective Representatives from and against any and all Third-Party claims to the extent arising out of or resulting from any breach of this Exhibit A or Section 5.2 of this Agreement with respect to MLIP by SpinCo Licensees, their Affiliates or Representatives.

(b) SpinCo Licensees will reasonably and promptly enforce its Third-Party confidentiality agreements if any such breach is due to such Third-Party actions, including, if appropriate, seeking injunctive relief. SpinCo Licensees will be required to consider Parent's reasonable recommendations to address the causes of any breach, including increased audits or other monitoring.

Section 4.5 Return of MLIP to Parent.

(a) If during the course of an audit or other business review, it is identified that any aspect or element of the MLIP at a facility is no longer being used by SpinCo Licensees for a period of twelve (12) consecutive months, then the Parties shall discuss in good faith the appropriate action to take with respect to such aspect or element of the MLIP, including whether SpinCo Licensees shall return or destroy (at Parent's option) aspect or element of the MLIP.

(b) Upon the expiration or termination of the licenses granted in this Exhibit A (partially or in their entirety) for any reason, all rights granted to the SpinCo Licensees shall revert to the Parent Licensors, and the SpinCo Licensees shall (i) immediately upon expiration, and (ii) as soon as possible, but no later than within thirty (30) days of termination, use commercially reasonable efforts to return or destroy (at Parent's option) the MLIP in the SpinCo Licensees' possession and control and shall certify to Parent that it has taken such steps in writing within thirty (30) days of the obligation to take such steps.

(c) Notwithstanding any expiration or termination of the licenses granted in this Exhibit A (partially or in their entirety) for any reason, the confidentiality and non-use obligations of the SpinCo Licensees with respect to the MLIP, and the Trade Secrets and confidential information embodied therein, shall be perpetual for as long as any information derives independent economic value, actual or potential, from not being generally known to or readily ascertainable through proper means by the public and are the subject of efforts that are reasonable under the circumstances to maintain secrecy.

Exhibit A – Schedule 3.1

B Braun
Terumo
Weigau
Smiths/ICU
KDL
Nipro
Greiner
Zhejiang Gongdong Medical Technology Co., Ltd.
TAIZHOU RICH MEDICAL PRODUCTS CO., LTD.
Guangzhou Improve Medical Instruments Co., Ltd
Sarstedt
Sol Millennium

Exhibit A – Schedule 4.1

B Braun
Terumo
Weigau
Smiths/ICU
KDL
Nipro
Greiner
Zhejiang Gongdong Medical Technology Co., Ltd.
TAIZHOU RICH MEDICAL PRODUCTS CO., LTD.
Guangzhou Improve Medical Instruments Co., Ltd
Sarstedt
Sol Millennium

Exhibit 10.5

CONTRACT MANUFACTURING AGREEMENT

This Contract Manufacturing Agreement (this "Agreement") is made and entered into as of March 31, 2022, with effectiveness as of 12:01 a.m., New York City time, on April 1, 2022 (the "Effective Date") by and between Becton, Dickinson and Company, a New Jersey corporation ("BD"), and Embecta Corp., a Delaware corporation ("SpinCo"). Parent and SpinCo are sometimes referred to herein individually as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, the board of directors of BD (the "BD Board") has determined that it is in the best interests of BD and its shareholders to create a new publicly traded company that will operate its diabetes care business (the "DC Business");

WHEREAS, in furtherance of the foregoing, the BD Board has determined that it is appropriate and desirable to separate the DC Business from the other businesses of BD (the "Separation") and, following the Separation, make a distribution, on a pro rata basis, to shareholders of BD of all of the outstanding shares of capital stock of SpinCo owned by BD (the "Distribution");

WHEREAS, SpinCo has been incorporated solely for these purposes and has not engaged in any activities except in connection with the Separation and the Distribution;

WHEREAS, each of BD and SpinCo has determined that it is appropriate and desirable to set forth certain agreements that will govern certain matters relating to the Separation and the Distribution and the relationship of BD, SpinCo and their respective affiliates following the Distribution; and

WHEREAS, to facilitate the prompt assumption by Customer of all manufacturing activities for the Products, Supplier shall supply the Products and provide related services and manufacturing activities for Customer for a transitional period, subject to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the foregoing and the covenants and promises contained herein, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. DEFINITIONS

Capitalized terms used but not defined herein shall have the meaning given to such terms in the Separation and Distribution Agreement. The following capitalized terms shall have the following meanings as used in this Agreement:

1.1 "Agreement" has the meaning set forth in the Preamble.

1.2 "Binding Commitment" has the meaning set forth in the Statement of Work.

1.3 "Business Day" means (a) any day other than a Saturday, Sunday or a day on which banking institutions are authorized or obligated by law to be closed in New York, New York or (b) any day other than any day on which banking institutions are authorized or obligated by law to be closed in the country in which the Facility is located.

1.4 "cGMP" means the then-current Good Manufacturing Practices as defined by the FDA in Title 21 of the Code of Federal Regulations.

1.5 "Change of Control" means with respect to a Party, (a) a merger or consolidation of such Party with a third party that results in the voting securities of such Party outstanding immediately prior thereto, or any securities into which such voting securities have been converted or exchanged, ceasing to represent at least fifty percent (50%) of the combined voting power of the surviving entity or the parent of the surviving entity immediately after such merger or consolidation, (b) a transaction or series of related transactions in which a third party, together with its Affiliates, becomes the beneficial owner of fifty percent (50%) or more of the combined voting power of the outstanding securities of such Party, or (c) the sale or other transfer to a third party, directly or indirectly, of all or substantially all of such Party's assets or business to which the subject matter of this Agreement relates.

1.6 "Claim" has the meaning set forth in Section 10.3.

1.7 "Complaint" means any written or oral expression or dissatisfaction relative to the identity, quality, durability, reliability, safety, effectiveness, or performance of a Product including, but not limited to, actual or suspected Product tampering, contamination, mislabeling, or wrong components.

1.8 "Conforming Purchase Order" means a Purchase Order for a given Month that (a) specifies the quantity of Product, by SKU, as set forth for the first Month of the then-current Rolling Forecast Binding Commitment, (b) otherwise complies with the terms of this Agreement, including specifying Product quantities by SKU that, for each Product SKU (i) are equal to or greater than the Monthly Period Product Quantity Minimum, (ii) are integer multiples of the Minimum Lot Size, and (iii) are no greater than the applicable Monthly Period Product Quantity Cap, and (c) specifies a required delivery date that is no earlier than the last day of the Month to which such Purchase Order applies. For the avoidance of doubt, an internal order between the Parties while SpinCo is under the Transition Services Agreement and Logistics Services Agreement shall be deemed a Purchase Order hereunder.

1.9 "Customer" means [BD and its designated subsidiaries] ***OR*** [SpinCo and its designated subsidiaries], as applicable.

1.10 "Effective Date" has the meaning set forth in the Preamble.

1.11 "Facility" has the meaning set forth in the Statement of Work.

1.12 "FDA" means the United States Food and Drug Administration.

1.13 "FDA Approval" means, in respect of the Products, all necessary Regulatory Approvals granted by the FDA for the manufacture, sale and distribution of the Products in the United States.

1.14 "Field Action" has the meaning set forth in Section 9.1.

1.15 "Fiscal Year" means each twelve (12)-Month period between October 1st and September 30th, *provided* that (a) the first "Fiscal Year" of the Term will commence on the Effective Date and end on the first occurrence of September 30th thereafter and (b) the final "Fiscal Year" of the Term will end on the termination of this Agreement. As used in this Agreement, "Year 1" shall mean the first Fiscal Year of the Term, "Year 2" shall mean the second Fiscal Year of the Term, and so forth.

1.16 "Fixed Assets" has the meaning set forth in the Statement of Work.

1.17 "Force Majeure Event" has the meaning set forth in Section 14.8.

1.18 "Governmental Authority" means any nation or government, any state, municipality or other political subdivision thereof, and any entity, body, agency, commission, department, board, bureau, court, tribunal or other instrumentality, whether federal, state, local, domestic, foreign or multinational, exercising executive, legislative, judicial, taxing, regulatory, administrative or other similar functions of, or pertaining to, government and any executive official thereof.

1.19 "Implementation Plan" has the meaning set forth in Section 7.4.

1.20 "Inspection Period" has the meaning set forth in Section 4.4(a).

1.21 "Labeling Modifications" has the meaning set forth in Section 8.1.

1.22 "Losses" has the meaning set forth in Section 10.1.

1.23 "Maximum Allowance Purchase Cap" has the meaning set forth in the Statement of Work.

1.24 "Minimum Lot Size" has the meaning set forth in the Statement of Work.

1.25 "Month" means a calendar month; *provided* that the first Month shall commence on the Effective Date and shall end on the last day of the Month in which the Effective Date occurs.

1.26 "Monthly Period Product Quantity Cap" has the meaning set forth in Section 2.2.

1.27 "Monthly Period Product Quantity Minimum" has the meaning set forth in Section 2.2.

1.28 "New Manufacturing Process" means a manufacturing process introduced by Supplier into the manufacture of the Products after the Effective Date without either of (i) Customer's written request for such manufacturing process or (ii) Customer's written approval of such manufacturing process.

1.29 "Non-Conforming Purchase Order" has the meaning set forth in Section 4.2(c).

1.30 "Party" or "Parties" has the meaning set forth in the Preamble.

1.31 "Pricing Principles" has the meaning set forth in Schedule [ ] under the heading "Pricing Principles".

1.32 "Product Group" has the meaning set forth in the Statement of Work.

1.33 "Product Price" has the meaning set forth in Section 3.1.

1.34 "Products" shall mean the products listed by SKU in the Statement of Work.

1.35 "Purchase Order" means a firm, written order for manufacturing and delivery of Products submitted by Customer to Supplier.

1.36 "Purchased Inventory" means all inventory of finished Products under the heading entitled "Purchased Inventory" in the Statement of Work.

1.37 "Raw Materials" means all raw materials used to make the Product.

1.38 "Regulatory Approval" means any and all clearances and approvals (including supplements, amendments, label expansions, pre- and post-approvals), licenses, registrations, or authorizations of any Governmental Authority that are necessary for the manufacture, distribution, use, and sale of the Products in a regulatory jurisdiction and, for the purpose of the United States, means FDA Approval.

1.39 "Rejection Notice" has the meaning set forth in Section 4.4(a).

1.40 "Representative(s)" means (a) with respect to Supplier: Supplier, its affiliates and each of their respective officers, directors, employees, consultants, contractors and agents, in each case to the extent designated by Supplier to perform all or any portion of its obligations under this Agreement, and (b) with respect to Customer: Customer, its affiliates and each of their respective officers, directors, employees, consultants, contractors and agents, in each case to the extent authorized to receive any Product on behalf of Customer or perform any of Customer's obligations under this Agreement.

1.41 "Rolling Forecast" has the meaning set forth in Section 4.1.

1.42 "Rolling Forecast Change Parameter" has the meaning set forth in Section 4.1(a).

1.43 "Semi-Binding Commitment" has the meaning set forth in the Statement of Work.

1.44 "Separation and Distribution Agreement" has the meaning set forth in the Recitals.

1.45 "SKU" means, with respect to each Product, such Product's stock keeping unit identifier as identified on the Statement of Work under the heading "[Products]".

1.46 "Specifications" means the specifications for the Products by SKU set forth in the Statement of Work under the heading "[Specifications]".

1.47 "Statement of Work" means the terms and conditions set forth in Exhibit A hereto.

1.48 "Sterilization" means the administration of an agreed upon anti-microbial process.

1.49 "Supplier" means [BD and its designated subsidiaries] ***OR*** [SpinCo and its designated subsidiaries] as applicable.

1.50 "Term" has the meaning set forth in the Statement of Work.

1.51 "Withholding Agent" has the meaning set forth in Section 3.4.

2. PURCHASE AND SUPPLY

2.1 Purchase and Supply. During the applicable Term, Customer agrees to purchase from Supplier, and Supplier agrees to supply to Customer, Products (and, if applicable, related services) in such quantities as may be ordered by Customer pursuant to Purchase Orders as provided in Section 4.2 below (subject, in each case, to the limitations and requirements of Section 2.2), and at such prices as provided in the Statement of Work.

2.2 Order Minimums and Maximums. In accordance with the provisions of Section 4 below, Customer shall place Purchase Orders with Supplier for any given month for an amount of units of Product not less than the amount set forth in the Statement of Work under the heading "Monthly Period Product Quantity Minimum" (the "Monthly Period Product Quantity Minimum") and not more than the amount set forth in the Statement of Work under the heading "Monthly Period Product Quantity Cap" (the "Monthly Period Product Quantity Cap"). Notwithstanding any provision of this Agreement to the contrary, except as mutually agreed by the Parties in writing pursuant to Section 4.2(c), Supplier shall not during any twelve (12)-month period, be required to supply any quantity of any Product Group or Product SKU, as applicable, that is greater than the amount set forth in the Statement of Work under the heading "Yearly Period Product Quantity Cap" for such Product Group or Product SKU, as applicable (the "Yearly Period Product Quantity Cap"). For the avoidance of doubt, the Purchased Inventory purchased by Customer under this Agreement shall not count towards any Monthly Period Product Quantity Minimum, any Monthly Period Product Quantity Cap or any Yearly Period Product Quantity Cap.

2.3 Manufacturing Activities. Except as otherwise contemplated by the Statement of Work, Supplier shall be responsible for the procurement of Raw Materials and the manufacturing, labeling, assembly, packaging and Sterilization (if applicable) in accordance with the applicable Specifications, and delivery of Products in accordance with the Statement of Work.

2.4 Performance through Representatives. Except as otherwise contemplated by the Statement of Work, Customer acknowledges and agrees that Supplier will at the Effective Date be performing and may continue to perform all or part of its obligations under this Agreement itself or through one or more of its Representatives or third party contractors; *provided*, *however*, that if Supplier desires to perform any obligation under this Agreement (including Sterilization) through a Representative or third party contractor that is not performing such activity as of the Effective Date, then Supplier shall first obtain Customer's prior written consent, such consent not to be unreasonably withheld, delayed or conditioned; and, *provided further*, that Supplier shall remain responsible for any of its obligations under this Agreement that are performed by its Representatives or third party contractors. For the avoidance of doubt, each Party's right to assign this Agreement in whole or in part shall be subject to Section 14.1.

2.5 Standards. Supplier shall (a) use reasonably qualified personnel in connection with manufacturing the Products for Customer and perform such manufacturing activities in a competent and workmanlike manner consistent with prevailing industry standards and in material compliance with applicable laws, the terms of this Agreement, the Statement of Work and the Specifications, and (b) obtain and maintain all material licenses, permits or approvals required by applicable laws in connection with the manufacture of Products for Customer, including permits related to the Facility. Except as may be required to comply with applicable laws (in which case Supplier shall supply Customer with at least ninety (90) days advance written notice), Supplier shall not amend, change or supplement (i) the Specifications, (ii) the processes and procedures for manufacturing the Products, or (iii) the Facility, in each case without Customer's prior written consent.

2.6 Excused Performance. Notwithstanding any provision of this Agreement to the contrary, Supplier shall have no obligation to manufacture, sell or supply Products (whether at all or in such quantities as Customer submits in Purchase Orders) or to make deliveries hereunder, and shall not be in breach of this Agreement, to the extent Supplier is prevented from performing such activities as a result of (a) Customer's failure to perform its obligations under this Agreement, (b) Customer's failure to reasonably promptly approve an alternative supplier of Raw Materials or service provider following Supplier's written request for such approval made either (i) pursuant to Section 2.4 or (ii) for purposes of complying with changes in applicable law.

2.7 Capacity Increases. The Parties acknowledge and agree that for each Product Group and Produce SKU, as applicable, Supplier shall not be required to supply an amount of Product in any Fiscal Year in excess of the amount set forth under the heading Maximum Allowable Purchase Cap in the Statement of Work.

3. PRICING; BILLING

3.1 Pricing. For each unit of a Product SKU supplied by Supplier and delivered to Customer hereunder (with the exception of the Purchased Inventory), Customer shall pay to Supplier the corresponding per unit price set forth on the Statement of Work (the "Product Price"), subject to adjustment in accordance with Section 3.2 and Section 8.1, and which shall take into account any adjustments resulting from changes in the cost of manufacturing such Product as set forth in the Statement of Work. No consideration or amount shall be payable in respect of the Purchased Inventory.

3.2 Other Fees. Without limiting Customer's obligations to pay or reimburse Supplier for any costs set forth in this Agreement, Customer shall pay Supplier the fees described in this Section 3.2.

(a) *Non-Recurring Fees.* Customer shall pay Supplier the following when and as the same are incurred by Supplier:

(i) special, one-time or extraordinary costs incurred by Supplier to comply with changes in applicable law (for the avoidance of doubt, to the extent allocable to the manufacturing, labeling, assembly, packaging, Sterilization (if applicable) and delivery of Products); *provided* that, to the extent permitted by applicable law, Supplier shall provide Customer with prior written notice of such proposed additional costs, including a reasonably detailed description of such costs;

(ii) all costs (including additional labor or third-party service charges) associated with the installation and testing of new capital equipment ordered and installed pursuant to Section 7.3, including molds, molding presses, packaging and ancillary equipment in each case necessary for the continued manufacture of the Products during the Term (for the avoidance of doubt, to the extent allocable to the manufacturing, labeling, assembly, packaging, Sterilization (if applicable) and delivery of Products);

(iii) when and as the same are incurred by Supplier: (A) any out-of-pocket costs and expenses incurred by Supplier in connection with inspections or audit by any Governmental Authority with respect to any Product, including any audit fees charged by Governmental Authorities for audits or inspections of any Facility, in each case to the extent relating to the manufacture, assembly, packaging, labeling, Sterilization (if applicable) and delivery of any Product; and (B) all out-of-pocket costs and expenses incurred by Supplier in connection with Field Actions or Complaints, to the extent such costs are not expressly required to be borne by Supplier pursuant to Section 9;

(iv) where either (A) Supplier is required by applicable law to obtain a new third party supplier of Raw Material or service provider or re-qualify an existing third party supplier or service provider, (B) a current supplier of Raw Material discontinues supplying such Raw Materials, experiences a supply shortage, supply failure or force majeure event, or ceases to do business (whether by means of bankruptcy or otherwise), or (C) the Parties agree in writing that Supplier will obtain a new third party supplier of Raw Material or service provider or re-qualify an existing third party supplier or service provider, in each case Customer shall reimburse Supplier for all costs in connection therewith (including the costs of any new services, engineering fees and qualification costs); and

(v) any costs or expenses incurred by Supplier associated with any delays caused by Customer, including delays caused by labeling changes pursuant to Section 8.

3.3 Billing. Either within thirty (30) days after the end of each Month or upon delivery of Products, Supplier shall send Customer one or more invoices setting forth in reasonable detail the aggregate amount owed by Customer to Supplier for Products delivered to Customer during such Month, with a breakdown showing: (a) the quantity of Products delivered to Customer during

such Month by Product SKU based on accepted Purchase Orders, pursuant to Section 4.5, or as otherwise mutually agreed, (b) the unit and aggregate Product Price for each Product, (c) all applicable taxes (as a separate line item); and (d) any other amounts owed by Customer to Supplier under this Agreement that became due and payable during such Month. Customer shall pay Supplier within ninety (90) days of receipt of the applicable invoice.

3.4 Taxes. All charges under this Agreement are exclusive of any taxes, including sales, use, VAT, consumption, excise, withholding, or similar taxes (other than taxes based on Supplier's or its affiliate's net income) that may apply to the transactions contemplated by this Agreement. Customer shall be responsible for paying all such taxes. Supplier may collect such Taxes from Customer as required by law. If any payments under this Agreement are subject to withholding or deduction, the applicable party (the "Withholding Agent") shall be entitled to withhold or deduct such amounts as required by applicable law, *provided* that prior to such withholding or deduction, the Withholding Agent shall give written notice of its intention to withhold or deduct and allow the other party sufficient time to furnish any required documentations and forms to minimize or eliminate such withholding or deduction. The Withholding Agent shall pay all such withheld or deducted amounts to the applicable governmental authority. For the avoidance of doubt, the provisions of this Section 3.4 shall apply to affiliates of Supplier and Customer as if such affiliate were Supplier or Customer, as applicable.

4. ORDERS; DELIVERY; PERIODIC REVIEWS

4.1 Forecasts.

(a) On or before the fifteenth (15th) day of each Month, Customer shall furnish Supplier with a rolling forecast of the number of units of each Product (on a Product Group-by-Product Group basis or Product SKU-by-SKU basis as set forth in the applicable Statement of Work) that Customer reasonably expects to order for the following twelve (12) Months beginning with the following Month (the "Rolling Forecast"). The initial Rolling Forecast, which has been initially agreed by the Parties, is attached to the applicable Statement of Work. Each Rolling Forecast must comply with Customer's Monthly Period Product Quantity Minimum commitment with respect to each Product Group or Product SKU, as applicable and must forecast quantities of Product in integer multiples of the Minimum Lot Size for each applicable Product Group or Product SKU, as applicable, but may not, for any forecasted Month, exceed the Monthly Period Product Quantity Cap with respect to any Product Group or Product SKU, as applicable. Except as otherwise set forth in the Statement of Work, the first three (3) Months of each Rolling Forecast shall be binding upon Customer and Supplier (each, a "Binding Commitment") and each of Months four (4) through twelve (12) of each Rolling Forecast may be increased or decreased by Customer by no more than the percent set forth in the applicable Statement of Work (under the heading "Rolling Forecast Change Parameter") of the number of units of such Product (on a Product Group-by-Product Group basis or Product SKU-by-SKU basis as set forth on the applicable Statement of Work) for the same Month in the immediately preceding submitted Rolling Forecast (each, a "Semi-Binding Commitment"). To the extent that a Rolling Forecast is not communicated by the Customer by fifteenth (15th) day of the then-current Month, the Parties agree that the Rolling Forecast for such Month shall be established by giving effect to the most recent Rolling Forecast and substituting the remaining Months with the quantity set forth in the Monthly Period Product Quantity Cap for any remaining Months of the most recent Rolling Forecast, subject, in all cases, to the limitations and requirements set forth in Section 2.2 and this Section 4.1.

(b) With respect to each Fiscal Year during the Term following Year 1, on or before July 31 of the prior Fiscal Year, Customer shall submit to Supplier an initial forecast of orders by Product for such Fiscal Year, and shall be deemed to be the Rolling Forecast for the period starting on October 1 of such Fiscal Year and ending on September 30 of such Fiscal Year. Supplier shall update each and every Product SKU pricing, consistent with the Pricing Principles, by August 31st prior to the upcoming Fiscal Year, which shall be the pricing for the next Fiscal Year. Such updated price list shall be deemed to supersede and replace the prior pricing in each Statement of Work. The new pricing shall be effective on October 1 of the applicable Fiscal Year.

4.2 Purchase Orders.

(a) On the Effective Date, Customer shall place a Purchase Order for Products in the Purchased Inventory, which Customer shall acquire at no cost. For clarity, no Purchased Inventory included in such initial Purchase Order shall be counted against any Monthly Period Product Quantity Minimum, Monthly Period Product Quantity Cap or Yearly Period Product Quantity Cap required hereunder, and the Purchased Inventory shall not be subject to the Minimum Lot Size or considered part of any Rolling Forecast.

(b) Not less than thirty (30) days prior to the first day of each Month, Customer shall submit a Conforming Purchase Order for the quantity of Products set forth for the first Month of the then-current Binding Commitment. All Conforming Purchase Orders shall become binding on Supplier and Customer when received by Supplier, subject to Section 2.2.

(c) Customer may, from time to time, in Customer's discretion, place a Purchase Order for Products that is not a Conforming Purchase Order (a "Non-Conforming Purchase Order"). To the extent the quantity of a Product set forth for any Month on a Non-Conforming Purchase Order (when combined with the quantity of such Product set forth in the Conforming Purchase Order for such Month submitted pursuant to Section 4.2(b)) exceeds the Binding Commitment in such month or the Monthly Period Product Quantity Cap for such Product, the Parties will work together in good faith to attempt to meet Customer's demand, subject to capacity limitations, the availability of Raw Materials and the availability and capacity of Supplier's third party service providers; *provided* that Supplier shall have no obligation to meet such additional demand or otherwise supply Product pursuant to any Non-Conforming Purchase Order. Notwithstanding anything provided herein to the contrary, the Parties acknowledge that in the event that BD, as Customer hereunder, places a Conforming Purchase Order to SpinCo, as Supplier hereunder, that SpinCo cannot satisfy solely based on BD's inability or limitations to supply Raw Material under any Ancillary Agreement (taking into consideration, among other things, SpinCo's ability to procure the substantial equivalent of such Raw Materials from third parties), then SpinCo, as Supplier hereunder, shall not be in breach of this Agreement solely because of SpinCo's inability to fulfil such Conforming Purchase Order, and only for the duration of BD's inability or limitations to supply Raw Material under any Ancillary Agreement, and the Parties shall work in good faith to resolve such issues.

(d) The terms and conditions of each Purchase Order (including any Conforming Purchase Order and Non-Conforming Purchase Order) shall be consistent with this Agreement and the Statement of Work, and to the extent any Purchase Order, invoice, acknowledgment or other form used by Supplier or Customer contains any provisions that are in addition to or contrary to the provisions of this Agreement or the Statement of Work, such additional or contrary provision shall have no force or effect and the terms of this Agreement or the Statement of Work, as applicable, shall govern (unless otherwise agreed to by the Parties in writing).

(e) Any portion of or all of a Purchase Order (including any Conforming Purchase Order and Non-Conforming Purchase Order) that is not submitted in accordance with this Agreement shall be deemed rejected by Supplier unless accepted by Supplier by written notice provided by Supplier to Customer within fifteen (15) days of receipt by Supplier of such Purchase Order. For clarity, any rejected Purchase Order shall not constitute a Purchase Order in satisfaction of Customer's obligation to purchase the Monthly Period Product Quantity Minimum.

4.3 Delivery; Title; Risk of Loss. Delivery terms for Products shall be FCA warehouse. Title and risk of loss of the Products shall pass to Customer upon receipt by Customer's carrier.

4.4 Product Inspection; Acceptance.

(a) Customer shall have the right to inspect any shipment of Products for damage, failure to provide the quantity provided in a Purchase Order or other non-conformity with Supplier's warranties set forth in Section 5.1, in each case at the time of delivery pursuant to Section 4.3, within the period of sixty (60) days from the date of delivery of such Products (the "Inspection Period"), *provided*, *however*, with respect to any non-conformity with Supplier's warranties set forth in Section 5.1 that is not reasonably detectable, the Inspection Period shall be extended to the date that is the earlier of (a) fifteen (15) days after the date such non-conformity is first detected. Claims on account of non-conformity, loss or damage to Product shall be made by Customer in writing within the applicable Inspection Period (a "Rejection Notice"). Any such Rejection Notice shall be accompanied by reasonable supporting evidence that shows that there was a default in the quantity of the Product delivered to Customer by Supplier or that some or all of the Product delivered to Customer by Supplier was not manufactured in accordance with the applicable Specifications or otherwise breaches Supplier's warranties set forth in Section 5.1, in each case at the time of delivery pursuant to Section 4.3. If no Rejection Notice is delivered by Customer within the applicable Inspection Period, the Product shall be deemed accepted by Customer.

(b) Customer's sole remedy with respect to rejected Product shall be cancellation of the Purchase Order with respect to the rejected Products and shipment of replacement Products in the same quantities as provided in the previously rejected Products Purchase Order. Supplier shall resupply any replacement Products within twelve (12) weeks of Supplier's receipt of an undisputed Rejection Notice; *provided* that, in each case, Supplier shall use commercially reasonable efforts to supply such replacement Products before the end of such twelve (12)-week period, to the extent Supplier is able to do so based on Supplier's available Raw Materials and manufacturing capacity. Supplier shall pay expenses related to the proper destruction of non-conforming Products to the extent such expense is reasonably necessary. At Supplier's written request, Customer shall return to Supplier, at Supplier's sole cost and expense, any non-conforming Products in accordance with the written instructions provided by Supplier to Customer.

4.5 Failure to Purchase Minimum Quantities. After the end of each applicable period during the Term, Supplier may review the quantities of each Product Group or Product SKU, as applicable, ordered by Customer pursuant to Purchase Orders during such period. If such quantities are below the Monthly Period Product Quantity Minimum or the applicable Binding Commitments for the applicable Product Groups or Product SKU, as applicable, Supplier may, after delivering to Customer the quantity of associated Products, invoice Customer for such shortfall, such invoice price to be calculated as the amount equal to the Product Price multiplied by the difference between (a) the greater of the applicable Binding Commitments or Monthly Period Product Quantity Minimum for the applicable period and (b) the number of units actually ordered pursuant to Purchase Orders for such period, in each case with respect to the applicable Product Groups and Product SKUs, as applicable. Customer shall pay such invoice within ninety (90) days of receipt, *provided* that the Products are or were actually delivered and conform to the requirements of this Agreement.

5. MANUFACTURE

5.1 Product Warranty.

(a) Supplier represents and warrants that:

(i) The Products shall, as applicable, be manufactured, packaged, labeled, handled, stored, transported, Sterilized and delivered (i) in accordance with applicable law and Section 4.3 in the quantities set forth in the applicable Purchase Order and (ii) consistent in in all material respects with the Specifications (for the avoidance of doubt, the warranty with regards to Sterilization is only a warranty that an agreed upon process for anti-microbials has been administered to the Products, and not a warranty as to the results of any such process);

(ii) The warranties set forth in this Section 5.1 shall not apply to the extent any claim arises after delivery to Customer in accordance with Section 4.3 as a result of (a) any Product having been misused, neglected, improperly handled, altered, abused or used for any purpose other than the one for which it was manufactured or other conditions beyond the control of Supplier or its Representatives, (b) any damage or defects caused by unauthorized repair or use of unauthorized parts or components or any other condition beyond the control of Supplier or its Representatives, (c) any specifications or instructions provided to Supplier by Customer or any breach by Customer of its obligations under this Agreement, and (d) any damage or defect as a result of the actions or inactions of Customer or its Representatives.

(b) Customer's sole and exclusive remedy for, and Supplier's sole obligation under the warranty set forth in Section 5.1(a)(i) are set forth in Section 4.4(b).

THE WARRANTIES SET FORTH IN SECTION 5.1 SHALL BE IN LIEU OF ALL OTHER WARRANTIES, AND SUPPLIER HEREBY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. WITHOUT LIMITING THE FOREGOING, SUPPLIER EXPRESSLY DISCLAIMS ANY REPRESENTATIONS AND WARRANTIES REGARDING THE PERFORMANCE, SAFETY, AND EFFICACY OF THE PRODUCTS, WHETHER ALONE OR IN COMBINATION WITH ANY OTHER PRODUCTS OR COMPONENT(S). CUSTOMER HEREBY ACCEPTS SUCH DISCLAIMERS.

5.2 Product Issues. Supplier will promptly, and in any case no later than five (5) Business Days, notify Customer of any lot failure, manufacturing problems or similar issues that may impact Customer's ability to distribute Products to its customers.

5.3 Reliance on Customer Instructions and Performance. In performing its obligations under this Agreement, Supplier will be entitled to rely upon any written instructions or written authorizations provided to Supplier by Customer's Representatives. Supplier will be relieved of its obligation to perform any obligation under this Agreement to the extent it is prevented from performing such obligation by (a) its compliance with such written instructions or (b) Customer's failure to perform its obligations under this Agreement.

5.4 Product Combination Disclaimer. Supplier expressly disclaims any representations or warranties regarding the performance, safety and efficacy of the Product to the extent such Product is combined with any drug or compound produced by a third party, and Customer acknowledges and agrees to such disclaimer. Supplier shall not be liable to Customer for any damages claimed by any Person due to the use of any Product to the extent such damages resulted from any compound or drug manufactured, produced or otherwise supplied by any third party, unless any such damages are a result of the gross negligence or willful misconduct of Supplier.

6. PROCUREMENT OF RAW MATERIALS

6.1 Management of Raw Materials. Supplier shall be responsible for procuring Raw Materials, except where otherwise set forth in the Statement of Work.

6.2 Changes. Supplier will promptly notify Customer upon receiving any communication from a supplier with respect to material limitations on production capacity or inventory, or any notice of discontinuation of production of, any Raw Materials that is reasonably likely to have a material impact on the manufacture and supply of Products for Customer.

7. [FIXED ASSETS

7.1 Ownership of Fixed Assets. The Parties acknowledge that the Fixed Assets are owned by Customer, but shall be located in the Supplier Facility and used by Supplier to manufacture the Products hereunder throughout the Term. Supplier will use reasonable care in operating and maintaining the Fixed Assets in an acceptable state of repair and operating efficiency so as to meet the Specifications, and Supplier shall pay for all out-of-pocket costs incurred to perform routine repairs, replacement or maintenance of the Fixed Assets to the extent required as a result of Supplier's gross negligence or willful misconduct.

7.2 Maintenance. Consistent with past practices for the twelve (12) month period immediately prior to the Effective Date, Supplier shall use commercially reasonable efforts to conduct regularly scheduled routine maintenance of the Fixed Assets. By no later than April 1 of each year, commencing April 1, 2023, Supplier shall make available to Customer, upon Customer's thirty (30) days' advance written request a condition report and schedule of budgeted costs of maintenance on such Fixed Assets along with a reasonably detailed maintenance log of any maintenance performed during the prior year. Supplier shall use commercially reasonable efforts to maintain reasonably appropriate insurance coverage with respect to the Fixed Assets. Customer shall be responsible for all costs and expenses related to maintenance and replacement of the Fixed Assets (including the non-routine maintenance and replacement of Fixed Assets), except as set forth herein.

7.3 New Equipment. Supplier may recommend whether and when Customer should purchase new equipment or machinery, including molds, molding presses, packaging, and ancillary equipment relating to the Products, and whether to replace existing equipment or machinery, in each case to the extent reasonably necessary to continue the manufacture of Products under this Agreement. Customer shall be solely responsible for approving, ordering, purchasing and insuring any such equipment or machinery (and the delivery, installation and similar expenses related thereto). Any such equipment or machinery shall be ordered, purchased, and owned by Customer. Notwithstanding the foregoing, Customer shall not order, have delivered or install any equipment in Supplier's Facility without Supplier's prior written consent. Notwithstanding any provision of this Agreement to the contrary, and without limiting the foregoing, Supplier shall have no obligation to manufacture, sell or supply Products (whether at all or in such quantities as Customer submits in Purchase Orders) or to make deliveries to Customer hereunder to the extent Customer fails to purchase, or delays in purchasing, equipment or machinery in accordance with this Section 7.3.

7.4 Relocation. No less than ninety days before the anticipated expiration or termination of the Term, the Parties will cooperate in good faith to develop a plan to manage the relocation of the Fixed Assets to Customer's possession and the transition of production of the applicable Products from Supplier to Customer or Customer's designated Representative (such plan, the "Implementation Plan") after such expiration or termination. During the Term, the Fixed Assets shall remain at the applicable Facility. In all cases, the Parties commit to work together cooperatively and in good faith to minimize any disruption to or interference with Supplier's business, including minimizing the total time required for such relocation and transition. Customer shall pay for all relocation, disassembly, rigging, packing, shipping and similar charges for disassembly, removal, transportation, and installation of the Fixed Assets, along with charges for any pre-approved labor charges provided by Supplier in support of the disassembly or removal of such Fixed Assets. Notwithstanding the foregoing, Supplier shall manufacture each Product supplied under this Agreement at the Facility and manufacturing of Products may not be relocated except as otherwise provided herein or consented to in writing by each Party.

7.5 Facilities; Access. Following the expiration of the Term, Supplier shall reasonably cooperate with Customer, at Customer's sole cost and expense, to transfer and deliver any documents, correspondence or other data to effect the transfer of any manufacturing process knowledge (excluding, for the avoidance of doubt, any intellectual property, which shall be transferred (if at all) in accordance with the terms of the Separation and Distribution Agreement

and the Ancillary Agreements) with respect to the Products supplied by Supplier to Customer. In connection therewith, Supplier shall permit one or more employees of Customer with reasonable access to the Facility to observe the manufacture of Products at such times and for such periods as the Parties mutually agree, acting reasonably and in good faith. Prior to being granted access to the Facility, such employees of Customer shall execute a confidentiality agreement in a form that is reasonably acceptable to Supplier.

7.6 Property Taxes. Customer shall timely file any and all personal property tax returns with respect to the Fixed Assets that are due after the Effective Date, and shall timely pay to the appropriate tax authorities any and all personal property taxes with respect to such Fixed Assets that are due after the Effective Date.][1]

8. LABELING; DESIGN HISTORY FILES

8.1 Labels and Packaging. Supplier shall label and package the Products prior to delivery using such artwork, packaging and labeling as used by Supplier in the manufacture and packaging of the Products as of the date immediately prior to the Effective Date or as otherwise provided in the Statement of Work; *provided* that, if requested in writing by Customer, Supplier shall use commercially reasonable efforts to apply barcodes to any packaging for Product (i.e., any individual packaging and/or exterior cartons pursuant to applicable law) at Customer's expense. In the event of any requested or required artwork, packaging, or labeling modifications pursuant to this Section 8.1 ("Labeling Modifications"), Customer shall reimburse Supplier for any costs and expenses incurred by Supplier in connection with such development or implementation, and to the extent that any such artwork, packaging or labeling change increases Supplier's cumulative cost of manufacturing, assembly, packaging, labeling, Sterilization (if applicable) or delivery of any Product, the Product Price for such Product shall be increased to reflect such cumulative cost increases. Any Labeling Modifications, including the costs noted immediately above, shall be agreed by Supplier and Customer in good faith before such Labeling Modifications are to be implemented.

9. REGULATORY; CUSTOMERS

9.1 Recall. Customer shall control any recall, withdrawal, adverse event or field correction (each, a "Field Action") with respect to any Product. In connection with a Field Action, Supplier shall reasonably cooperate with responding to Customer's requests for information or other assistance, and in otherwise effecting such Field Action. To the extent reasonably possible, Customer shall consult with Supplier before issuing any press release or otherwise making any public statement or making any other public (or non-confidential) disclosure (whether or not in response to an inquiry) regarding any Field Action that directly or indirectly references or implicates Supplier. Customer shall be responsible for communicating with any Governmental Authorities in connection with a Field Action. Customer shall bear any costs and expenses incurred by it and by Supplier in connection with any such Field Action (including with respect to any Field Action caused by any supplier of Raw Materials); *provided*, *however*, that if a Field Action results primarily from Supplier's breach of its warranties under Section 5.1, Supplier shall

[1] To be included for the Dun Laoghaire, Suzhou 3 and Drogheda CMAs/rCMAs.

pay the reasonable out-of-pocket costs incurred by Customer for each such Field Action in connection with Customer's response to any such Field Action, including the cost of shipping, inspecting and sorting Products impacted by such Field Action, which reimbursable costs with respect to any such Field Action shall not, in the aggregate, exceed $1,000,000. The remedies set forth in Section 4.4(b) shall be available to Customer for (a) Products that do not conform with the warranties set forth in Section 5.1 and (b) conforming Products that Customer is required to include in a Field Action involving non-conforming Products pursuant to applicable law. Notwithstanding anything to the contrary in this Agreement, the foregoing shall be Customer's sole and exclusive remedy with respect to a Field Action. Any information of any nature obtained by either Party during any Field Action shall be subject to the provisions of Section 11.

9.2 Compliance with Laws. Supplier shall comply with applicable law with respect to the manufacture of the Products, including cGMP to the extent applicable to the Products, and shall not be required to perform or omit to perform any act required or permitted under this Agreement if such performance or omission would violate the provisions of any such law.

9.3 Safety Laws. Customer hereby acknowledges and agrees that many jurisdictions, including the United States, have in effect laws, rules and/or regulations, including the Needlestick Prevention Act in the United States (the "Safety Laws") mandating or recommending the use of protection technologies in connection with drug delivery devices and containers (collectively, the "Safety Products"). Customer has been and will be solely responsible for making its own analysis of such Safety Products and compliance with such Safety Laws.

9.4 Regulatory Approvals. Subject to the terms of that certain Logistics Services Agreement and that certain Transition Services Agreement, each of even date herewith and by and between the Parties, Supplier shall not be responsible for procuring, maintaining or otherwise handling Regulatory Approvals necessary to manufacture, market and sell the Products, including the completion of any and all international registration documentation. Supplier shall continue to maintain the Regulatory Approvals necessary to manufacture the Products at the Facility.

9.5 Government Inspection; Requests for Information. Supplier shall, pursuant to applicable law, allow the FDA or any other Governmental Authority with jurisdiction over Supplier's manufacture or Customer's marketing and distribution of Product to inspect all areas of the Facility (and, to the extent that Supplier is contractually permitted to allow such access, third-party facilities) utilized by Supplier in the manufacture, testing, packaging, Sterilization, storage and shipment of Products sold under this Agreement, and will reasonably cooperate with such Governmental Authorities. Supplier will notify Customer as soon as is reasonably practicable after it receives notice of an inspection if it relates to any Product. In the event of any such inspection by the FDA or other Governmental Authority (including an inspection by an agency or organization appointed by the FDA or other Governmental Authority), Supplier shall contact Customer to inform Customer of such inspection and of any material non-conformity which may impact the fit, form or function or the regulatory status (510(k) or otherwise) of any of the Products supplied to Customer.

9.6 Complaints; Communications. Customer shall be responsible for handling and addressing all Complaints and customer communications (including general inquiries) concerning any Product. In the event Supplier receives or becomes aware of a Complaint or communication about any Product, Supplier shall promptly notify Customer and refer such Complaint or communication, and any relevant information or documentation obtained with respect thereto, to Customer. Customer shall be responsible for communicating with customers regarding any Complaint about any Product, unless otherwise agreed upon by both Parties during a specific complaint investigation. Each Party shall provide the other Party with the telephone numbers and names of contacts for this purpose. Customer shall be responsible for investigating any Complaint about the Products, making filing determinations with respect to any Complaint, reporting any Complaints to the applicable Governmental Authority, including, for the avoidance of doubt, filing medical device reports and ex-US vigilance reports, implementing any corrective action where necessary, and responding directly to the customer about its complaint, and Customer shall bear all costs associated therewith. Supplier shall cooperate with Customer in connection with any complaint investigation and promptly respond to Customer's requests for information or provide such other assistance as Customer may reasonably request, at Customer's expense.

10. INDEMNIFICATION

10.1 Supplier Indemnification. Subject to the provisions of Section 10.3, Supplier shall defend, indemnify and hold harmless Customer and its Representatives and their permitted successors and assigns with respect to any liability, damage, loss or expenses (including reasonable attorneys' fees and court costs) relating to third party claims (collectively, "Losses") arising out of, relating to, or resulting from: (a) any breach or default by Supplier of any representation, warranty or covenant of Supplier contained in this Agreement, but not including the express warranties provided in Section 5.1(a)(i) (the remedies for which are expressly limited to those set forth in Section 4.4(b), except in the case of fraud, gross negligence or willful misconduct on the part of Supplier); (b) Supplier's failure to comply with the express warranties provided in Section 5.1(a)(i) and (ii), solely to the extent the subject of a third party claim for personal injury or death; (c) the fraud, gross negligence or willful misconduct of Supplier in the course of the performance of its obligations hereunder; or (d) claims that Supplier's conduct of any New Manufacturing Process infringes, misappropriates, or violates any intellectual property rights of third parties.

10.2 Customer Indemnification. Subject to the provisions of Section 10.3, Customer shall defend, indemnify and hold harmless Supplier and its Representatives and their permitted successors and assigns with respect to all Losses arising out of, relating to, or resulting from: (a) any breach or default by Customer of any representation, warranty or covenant of Customer contained in this Agreement; (b) the gross negligence, willful misconduct or fraud of Customer in connection with this Agreement; (c) the use, sale, import, export or exploitation of the Products, except for such indemnification obligations of the Supplier under Section 10.1 or (d) any needlestick injury or similar damage sustained or alleged by any Person involved in the handling, shipping, manufacture, assembly, sale, distribution, supply, use or operation of any Product on or after delivery of such Product.

10.3 Procedure. Promptly after receipt of written notice of the assertion or the commencement of a third party claim asserted against a Party for which the other Party has an indemnification obligation under this Section 10, the indemnified Party shall provide the indemnifying Party with written notice describing an indemnification claim ("Claim") in reasonable detail in light of the circumstances then known and then providing the indemnifying Party with further notices to keep it reasonably informed with respect thereto; *provided*, *however*, that failure of the indemnified Party to provide timely notice or to keep the indemnifying Party reasonably informed as provided herein shall not relieve the indemnifying Party of its obligations hereunder except to the extent that the indemnified Party is materially prejudiced thereby. If any proceeding shall be commenced against any indemnified Party by a third party, the indemnifying Party shall be entitled to participate in such Claim and assume the defense thereof with counsel reasonably satisfactory to the indemnified Party, at the indemnifying Party's sole cost and expense, and the indemnifying Party shall reasonably cooperate with the indemnifying Party, at the indemnifying Party's sole cost and expense, in the defense of any Claim and shall be entitled to participate in any proceeding at its expense, and the indemnifying Party shall not settle such proceeding without the indemnified Party's prior written consent (which consent shall not be unreasonably withheld or delayed), except such consent shall not be required in the case of any settlement that includes a full and unconditional release of the indemnified Party by the plaintiff or claimant from all liability with respect to the matters that are subject to such Claim. The indemnified Party may participate in the defense of any claim with counsel reasonably acceptable to the indemnifying Party, at the indemnified Party's own expense.

10.4 Limitation of Liability. For the avoidance of doubt, the terms of this Section 10.4 do not apply to claims arising out of the Separation and Distribution Agreement or any other Ancillary Agreement (as defined in the Separation and Distribution Agreement).

(a) EXCEPT FOR (I) CLAIMS PURSUANT TO A BREACH OF THE CONFIDENTIALITY OBLIGATIONS SET FORTH IN SECTION 11, (II) THIRD PARTY CLAIMS FOR WHICH A PARTY HAS AN INDEMNIFICATION OBLIGATION UNDER SECTION 10.1(b) OR SECTION 10.2(b) and (c) AND (III) CUSTOMER'S PAYMENT OBLIGATIONS UNDER SECTION 3, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NEITHER PARTY WILL BE LIABLE TO THE OTHER FOR ANY LOST PROFITS, LOSS OF DATA, LOSS OF USE, BUSINESS INTERRUPTION OR OTHER SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE, EXEMPLARY, OR CONSEQUENTIAL DAMAGES, HOWEVER CAUSED, UNDER ANY THEORY OF LIABILITY, ARISING FROM THE PERFORMANCE OF, OR RELATING TO, THIS AGREEMENT REGARDLESS OF WHETHER SUCH PARTY HAS BEEN NOTIFIED OF THE POSSIBILITY OF, OR THE FORESEEABILITY OF, SUCH DAMAGES.

(b) IN ADDITION, SUPPLIER SHALL NOT BE LIABLE FOR ANY DAMAGES ARISING FROM CLAIMS OF THIRD PARTIES FOR PERSONAL INJURY OR DEATH TO THE EXTENT A RESULT OF THE USE OF ANY PRODUCT, OR FAILURE OF SUPPLIER TO WARN, OR TO ADEQUATELY WARN, AGAINST THE DANGERS OF THE PRODUCTS OR FAILURE OF SUPPLIER TO INSTRUCT, OR TO ADEQUATELY INSTRUCT, ABOUT THE SAFE AND PROPER USE OF THE PRODUCTS, EXCEPT AS CONTEMPLATED BY SECTION 10.1(b) or (c). NOTWITHSTANDING ANYTHING ELSE TO THE CONTRARY SET FORTH IN THIS AGREEMENT OR THE SEPARATION AND DISTRIBUTION AGREEMENT, EXCEPT FOR (I) CLAIMS PURSUANT TO A BREACH OF THE CONFIDENTIALITY OBLIGATIONS SET FORTH IN SECTION 11, (II) THIRD PARTY CLAIMS FOR WHICH A PARTY HAS AN INDEMNIFICATION OBLIGATION UNDER SECTION 10.1(b), OR SECTION 10.2, (III) CUSTOMER'S PAYMENT

OBLIGATIONS UNDER THIS AGREEMENT, AND (IV) FRAUD, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT BY EITHER PARTY, AND, THE MAXIMUM LIABILITY OF A PARTY UNDER THIS AGREEMENT FOR ALL CLAIMS UNDER ANY THEORY OF LIABILITY SHALL NOT EXCEED THE GREATER OF (X) ONE MILLION U.S. DOLLARS ($1,000,000) OR (Y) TEN PERCENT (10%) OF THE AGGREGATE SUM OF PAYMENTS MADE BY CUSTOMER TO SUPPLIER PURSUANT TO SECTION 3.1 OF THIS AGREEMENT DURING THE TERM. CUSTOMER FURTHER ACKNOWLEDGES THAT ANY RIGHT OF RECOVERY (BY SUBROGATION OR OTHERWISE) BY CUSTOMER'S INSURER IS HEREBY WAIVED AND CUSTOMER'S INSURER SHALL NOT HAVE ANY OTHER RECOURSE AGAINST SUPPLIER FOR DAMAGES PAID UNDER CUSTOMER'S INSURANCE POLICIES FOR LIABILITIES ARISING IN CONNECTION WITH THIS AGREEMENT.

11. CONFIDENTIAL INFORMATION

11.1 BD and SpinCo Obligations. Subject to Section 11.4, until the six (6)-year anniversary of the date of the termination of this Agreement in its entirety, each of BD and SpinCo, on behalf of itself and each of its Subsidiaries, agrees to hold, and to cause its respective Representatives to hold, in strict confidence, with at least the same degree of care that applies to BD's confidential and proprietary information pursuant to policies in effect as of the Effective Time, all confidential and proprietary information concerning the other Party or its Subsidiaries or their respective businesses that is either in its possession (including confidential and proprietary information in its possession prior to the date hereof) or furnished by such other Party or such other Party's Subsidiaries or their respective Representatives at any time pursuant to this Agreement, and shall not use any such confidential and proprietary information other than for such purposes as may be expressly permitted hereunder, except, in each case, to the extent that such confidential and proprietary information (a) is in the public domain or is generally available to the public, other than as a result of a disclosure by such Party or any of its Subsidiaries or any of their respective Representatives in violation of this Agreement; (b) is lawfully acquired from other sources by such Party or any of its Subsidiaries, which sources are not themselves known by such Party or any of its Subsidiaries to be bound by a confidentiality obligation or other contractual, legal or fiduciary obligation of confidentiality with respect to such confidential and proprietary information; (c) is independently developed or generated without reference to or use of the confidential and proprietary information of the other Party or any of its Subsidiaries; or (d) was in such Party's or its Subsidiaries' possession on a non-confidential basis prior to the time of disclosure to such Party and at the time of such disclosure was not known by such Party or any of its Subsidiaries to be prohibited from being disclosed by a confidentiality obligation or other contractual, legal or fiduciary obligation of confidentiality with respect to such confidential and proprietary information. If any confidential and proprietary information of a Party or any of its Subsidiaries is disclosed to the other Party or any of its Subsidiaries in connection with Supplier's supply of the Products and provision of related services and manufacturing activities hereunder, then such disclosed confidential and proprietary information shall be used only as required for Supplier's supply of the Products and provision of related services and manufacturing activities.

11.2 No Release; Return or Destruction. Each Party agrees (a) not to release or disclose, or permit to be released or disclosed, any Confidential Information of the other Party addressed in Section 11.1 to any other Person, except its Representatives who need to know such confidential and proprietary information in their capacities as such (who shall be advised of their obligations hereunder with respect to such confidential and proprietary

information) and except in compliance with Section 11.4, and (b) to use commercially reasonable efforts to maintain such confidential and proprietary information in accordance with Section 6.4 of the Separation and Distribution Agreement. Without limiting the foregoing, when any such confidential and proprietary information is no longer needed for the purposes contemplated by this Agreement, each Party will promptly after request of the other Party either return to the other Party all such confidential and proprietary information in a tangible form (including all copies thereof and all notes, extracts or summaries based thereon) or notify the other Party in writing that it has destroyed such information (and such copies thereof and such notes, extracts or summaries based thereon); *provided* that the Parties may retain electronic back-up versions of such confidential and proprietary information maintained on routine computer system backup tapes, disks or other backup storage devices; and *provided, further*, that any such retained back-up information shall remain subject to the confidentiality provisions of this Agreement.

11.3 Privacy and Data Protection Laws. Each Party shall comply with all applicable state, federal and foreign privacy and data protection laws that are or that may in the future be applicable to the supply of the Products and provision of related services and manufacturing activities under this Agreement.

11.4 Injunctive Relief. In the event that a Party or any of its Subsidiaries either determines on the advice of its counsel that it is required to disclose any information pursuant to applicable law or receives any request or demand under lawful process or from any Governmental Authority to disclose or provide information of the other Party (or any of its Subsidiaries) that is subject to the confidentiality provisions hereof, such Party shall notify the other Party (to the extent legally permitted) as promptly as practicable under the circumstances prior to disclosing or providing such information and shall cooperate, at the expense of the other Party, in seeking any appropriate protective order requested by the other Party. In the event that such other Party fails to receive such appropriate protective order in a timely manner and the Party receiving the request or demand reasonably determines that its failure to disclose or provide such information shall actually prejudice the Party receiving the request or demand, then the Party that received such request or demand may thereafter disclose or provide information to the extent required by such law (as so advised by its counsel) or by lawful process or such Governmental Authority and will exercise reasonable efforts to obtain assurance that confidential treatment will be accorded to such confidential and proprietary information, and the disclosing Party shall promptly provide the other Party with a copy of the information so disclosed, in the same form and format so disclosed, together with a list of all Persons to whom such information was disclosed, in each case to the extent legally permitted.

11.5 Injunctive Relief. It is understood and agreed that money damages may not be a sufficient remedy for any breach of this Section 11, and that the disclosing Party may be entitled to specific performance and injunctive or other equitable relief as a remedy for any such breach. Such remedy shall not be deemed to be the exclusive remedy for breach of this Section 11, but shall be in addition to all other remedies available at law or equity to the disclosing Party.

11.6 Survival. Subject to Section 11.4, the obligations in this Section 11 shall survive any expiration or termination of this Agreement for six (6) years after the date of expiration or termination of this Agreement; *provided*, *however*, that, with respect to each trade secret of a Party, such obligations shall continue as long as such trade secret remains otherwise protectable as a trade secret. In the event of a conflict, contradiction, or inconsistency between any other agreement executed by the Parties or their Representatives at the Closing concerning rights to trade secrets at the Facility, such other agreement shall govern and prevail over the language in the preceding sentence.

12. RECORDS; INSPECTION; ACCESS TO FACILITIES

12.1 Manufacturing Records. Supplier agrees to retain all applicable records relating to the manufacturing of Products for a period of not less than seven (7) years from the date of delivery of Product, or such longer period as may be required by applicable law. Supplier shall provide Customer with complete and accurate copies of such records, upon Customer's request and at Customer's expense.

12.2 Inspection. Subject to Supplier's consent (not to be unreasonably withheld), on an annual basis, or more frequently with reasonable cause, Supplier agrees to permit Customer, Customer's contract manufacturers acting on Customer's behalf and any Representatives to enter and inspect, upon at least fifteen (15) days' prior written notice and during normal business hours, the Facility that is used to manufacture, label, package, Sterilize and store the Products to determine whether Supplier's manufacturing processing, labeling, packaging, Sterilization or storage of the Products conform with the applicable Specifications and otherwise comply with the requirements of this Agreement and applicable law; *provided* any such inspection does not unreasonably interfere with Supplier's continued operation of its business and Customer executes (and causes its applicable Representatives to execute pursuant to Section 12.3) a confidentiality agreement as a condition to being provided access to the Facility. The foregoing notice obligation shall be diminished to one (1) business day if the inspection is necessitated by a good faith concern related to Product quality or compliance with applicable laws where such shortened notice period may serve to mitigate immediate harm or damage to Customer or its end-users.

12.3 Access by Customer Personnel. Prior to allowing any of its Representatives to enter into the Facility, Customer shall require such Representatives to enter into confidentiality agreements with Supplier that contains provisions that are consistent with the provisions of Section 11. Customer shall cause all of its Representatives to comply with all reasonable Supplier instructions and policies while at the Facility, and Supplier shall have the right to remove any Representatives of Customer from the Facility for failure to comply with such instructions or policies.

13. TERM AND TERMINATION; TRANSITION OF PRODUCTION

13.1 Term. The term of this Agreement (the "Term") shall be as set forth in the Statement of Work.

13.2 Termination on Account of Material Breach. Either Party may terminate this Agreement, in whole or in part, without liability, except for amounts due and payable hereunder as of the date of termination, in the event the other Party breaches any material provision of this Agreement and fails to cure such breach, if capable of being cured, within ninety (90) days after receipt of written notice (which notice shall specify in reasonable detail the nature of such breach). This right shall be in addition to any other remedies provided by law.

13.3 Termination on Account of Bankruptcy. This Agreement may be terminated immediately upon written notice by one Party to the other if the other Party becomes insolvent, makes an assignment for the benefit of creditors, has a receiver appointed for it or any of its assets, or files or has filed against it a petition, under the Bankruptcy Code of 1978, as amended, 11 U.S.C. § 101 *et seq.* (or bankruptcy law of another country), or under any insolvency laws providing for the relief of debtors, where such petition, assignment or similar proceeding is not dismissed within ninety (90) days following its filing.

13.4 Customer's Right to Termination. Customer may terminate this Agreement during the Term in whole or with respect only to certain Products, including on a SKU by SKU basis, at any time without cause upon one-hundred-twenty (120) days' prior written notice to Supplier; *provided* that, in connection with any such termination by convenience, Customer shall reimburse Supplier for any amounts due and payable hereunder as of the date of termination (including any costs and expenses reasonably incurred by Supplier in anticipation of this Agreement continuing for the duration of the Term).

13.5 Termination on Account of Change of Control. In the event that SpinCo consummates a Change of Control, then BD will have the right to terminate this Agreement in response to the consummation of the Change of Control by SpinCo, which right may be exercised by BD in its sole discretion. Such termination right will be exercisable once the notice to BD of the consummation of the Change of Control has been provided (which notice shall be provided promptly).

13.6 Raw Materials; Work in Progress; Inventory.

(a) Upon expiration of the Term or any termination pursuant to this Agreement, the Parties shall discuss in good faith (i) Customer purchasing from Supplier all Raw Materials that remain in Supplier's inventory as of the effective date of such expiration or termination to the extent such Raw Materials relate specifically to the Products and were acquired by Supplier for and specifically allocated by Supplier to the manufacture of the Products, and (ii) Customer assuming all third party purchase commitments or open purchase orders for Raw Materials or services attributable to the Products to the extent such purchase commitments cannot be cancelled without penalty, surcharge, default or other adverse consequence to Supplier, *provided*, *however*, that such commitments are consistent with the Rolling Forecast. Notwithstanding anything to the contrary in this Agreement, if, prior to expiration or termination of this Agreement, Supplier has ordered Raw Materials for the supply of replacement Products pursuant to Section 4.4 or has commenced the manufacture of replacement Products pursuant to Section 4.4, Supplier shall complete the supply of such replacement Products and Customer shall not have the right to seek a refund for the rejected Products to be replaced with such replacement Products.

(b) In addition to the foregoing, Customer shall remain obligated to purchase from Supplier all quantities of Products reflected in any Purchase Orders, the Binding Commitment, and, to the extent applicable, the binding portion of the Semi-Binding Commitment of the Rolling Forecast in effect as of the effective date of termination.

(c) Any Raw Materials and works in progress purchased by Customer under this Agreement (including as set forth in Sections 13.6(a)-(b)) shall be at Supplier's sole cost, and any finished Product and open Purchase Order obligations shall be purchased at the Product Prices. Customer shall only be obligated to purchase Raw Materials that comply with the Specifications for such Raw Materials. Any Raw Materials that do not comply with the Specifications at the time of delivery to Customer may be returned to Supplier at Supplier's sole cost.

13.7 Transport of Fixed Assets. [Upon expiration or termination of this Agreement, or at such other time as the Parties may mutually agree pursuant to Section 7.4, Supplier shall disconnect the Fixed Assets from utilities and mechanical and electronic systems and shall be responsible for moving the Fixed Assets to appropriate loading facilities at the Supplier Facility as necessary for Customer or its Representatives to have access to the Fixed Assets. Customer shall dismantle and crate for transportation and transport the Fixed Assets to Customer's facilities (or Customer's designated third party's facilities) at its own expense. The removal of the Fixed Assets and inventories shall be completed as soon as possible, but in no event later than ninety (90) days following termination or expiration of this Agreement, under Supplier's supervision and at such times as may be mutually agreed by the Parties.][2]

13.8 Survival. Section 1, Section 4.4(b), Section 5, Section 7.1, Section 7.2, Section 7.4, Section 7.5, Section 7.6, Section 9, Section 10, Section 11, Section 12.1, Section 13.6, Section 13.7 and this Section 13.8, and Section 14 shall survive the expiration or termination of this Agreement in each case in accordance with their respective terms. In no event shall Supplier's obligation to supply Products under this Agreement extend beyond the Term.

14. MISCELLANEOUS

14.1 Successors; Assigns. The succession and assignment provisions set forth in Section 10.3 of the Separation and Distribution Agreement shall apply to this Agreement *mutatis mutandis*. Notwithstanding anything in this Section 14.1 to the contrary, no assignment shall relieve the assigning Party of its obligations hereunder.

14.2 Relationship of the Parties. In performing their respective obligations hereunder, each of the Parties will operate as, and have the status of, an independent contractor and will not act as or be an agent, partner, co-venturer or employee of the other Party. Neither Party shall represent itself to be, or otherwise conduct itself as, an agent of the other Party and nothing contained in this Agreement shall be construed to give either Party the power to direct or control the day-to-day activities of the other or create or assume any obligation on behalf of the other. This Agreement does not create a partnership or joint venture between the Parties.

14.3 Governing Law. The rights and obligations of the Parties shall be governed by, and this Agreement shall be interpreted, construed and enforced in accordance with, the laws of the State of Delaware, excluding its conflict of laws rules to the extent such rules would apply the law of another jurisdiction.

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2 To be included if Section 7 is included.

14.4 Jurisdiction; Waiver of Jury Trial.

(a) Each of the Parties hereby irrevocably and unconditionally submits to the exclusive jurisdiction of the Court of Chancery of the State of Delaware or, the United States District Court for the District of Delaware, and any appellate court from any appeal thereof, in any action arising out of or relating to this Agreement or the transactions contemplated hereby, and each of the Parties hereby irrevocably and unconditionally (i) agrees not to commence any such action except in such courts, (ii) agrees that any claim in respect of any such action may be heard and determined in the Court of Chancery of the State of Delaware or, to the extent permitted by law, in such other courts, (iii) waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any such action in the Court of Chancery of the State of Delaware or such other courts, (iv) waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action in the Court of Chancery of the State of Delaware or such other courts and (v) consents to service of process in the manner provided for notices in Section 14.7. Nothing in this Agreement will affect the right of any Party to serve process in any other manner permitted by law.

(b) EACH OF THE PARTIES HEREBY IRREVOCABLY WAIVES ITS RIGHT TO A JURY TRIAL IN CONNECTION WITH ANY ACTION, PROCEEDING OR CLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY TRANSACTION CONTEMPLATED HEREBY.

14.5 Entire Agreement. This Agreement, including the other documents, exhibits, schedules and agreements specifically referred to herein, constitutes the entire agreement between and among the Parties hereto with regard to the subject matter hereof, and supersedes all prior agreements and understandings with regard to such subject matter. There are now no agreements, representations or warranties between or among the Parties other than those set forth in the Separation and Distribution Agreement or the documents and agreements contemplated in the Separation and Distribution Agreement or this Agreement.

14.6 Amendment, Waivers and Consents. This Agreement shall not be changed or modified, in whole or in part, except by supplemental agreement or amendment signed by the Parties. Any Party may waive compliance by any other Party with any of the covenants or conditions of this Agreement, but no waiver shall be binding unless executed in writing by the Party making the waiver. No waiver of any provision of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. Any consent under this Agreement shall be in writing and shall be effective only to the extent specifically set forth in such writing.

14.7 Notices. Any notice required or permitted to be given hereunder shall be sufficient if in writing and (a) delivered in person or by express delivery or courier service or (b) deposited in the mail registered or certified first class, postage prepaid and return receipt requested (*provided* that any notice given pursuant to clause or (c) is also confirmed by the means described in clause (a) or (b)) to such address or facsimile of the Party set forth below or to such other place or places as such Party from time to time may designate in writing in compliance with the terms hereof. Each notice shall be deemed given when so delivered personally, or, if sent by express delivery or courier service one (1) Business Day after being sent, or if mailed, five (5) Business Days after the date of deposit in the mail. A notice of change of address shall be effective only when done in accordance with this Section 14.7.

To BD at: Becton, Dickinson and Company
1 Becton Drive
Franklin Lakes, New Jersey 07417
Attention: Joseph LaSala
Chief Counsel - Transactions/M&A
E-mail: joseph_lasala@bd.com

To SpinCo at: Embecta Corp.
300 Kimball Drive
Parsippany, New Jersey 07054
Attention: Jeff Mann
Senior Vice President, General Counsel,
Head of Corporate Development and Corporate Secretary
E-mail: jeff.mann@bd.com; jeff.mann@embecta.com

14.8 Force Majeure Events.

(a) Neither Supplier nor Customer shall be liable for loss, damage, detention, delay or failure to perform resulting from any cause whatsoever beyond its reasonable control or resulting from a force majeure ("Force Majeure Event"), including earthquake, fire, flood, infectious diseases, public health developments, epidemics and pandemics (including, for the avoidance of doubt, COVID-19 (and any evolutions or mutations thereof) and the effects of any quarantine restrictions or other measures taken by a Governmental Authority or any other person in response thereto), strike or lockout (other than a strike or lockout involving Supplier's own employees), actions of a civil or military authority, insurrection, war, embargo, an act of terrorism and container or transportation shortage. Delivery dates for Product shall be extended to the extent of any delays resulting from the foregoing or similar causes. The Party so affected shall give prompt notice to the other Party of such cause, and shall take whatever reasonable steps are necessary to relieve the effect of such cause as rapidly as reasonably possible. Notwithstanding the foregoing, nothing in this Section 14.8 shall relieve Customer of its obligation to pay for Product received from Supplier and accepted by Customer pursuant to this Agreement.

(b) In addition to and not in lieu of the terms and conditions above, if a Force Majeure event causes a shortage of Raw Materials or a shortage of Product, Supplier shall equitably allocate such Raw Materials or Product among all of Supplier's requirements with respect to such Raw Materials or Products, based on, where applicable, both parties' usage for the twelve (12)-month period prior to such Force Majeure event.

14.9 Interpretation. Except as otherwise explicitly specified to the contrary, (a) references to a Section, Article, Exhibit or Schedule means a Section or Article of, or Schedule or Exhibit to, this Agreement, unless another agreement is specified, (b) the word "including" (in its various forms) means "including without limitation," (c) references to a particular statute or regulation include all rules and regulations thereunder and any predecessor or successor statute, rules or regulation, in each case as amended or otherwise modified from time to time, (d) words in

the singular or plural form include the plural and singular form, respectively, (e) references to a particular person include such Person's successors and assigns to the extent not prohibited by this Agreement, and (f) the headings contained in this Agreement, in any Exhibit or Schedule hereto and in the table of contents to this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

14.10 Rules of Construction. The Parties acknowledge that each Party has read and negotiated the language used in this Agreement. The Parties agree that, because all Parties participated in negotiating and drafting this Agreement, no rule of construction shall apply to this Agreement which construes ambiguous language in favor of or against any Party by reason of that Party's role in drafting this Agreement.

14.11 Severability. If any provision of this Agreement, as applied to either Party or to any circumstance, is declared by a court of competent jurisdiction to be illegal, unenforceable or void, this Agreement shall continue in full force and effect without said provision.

14.12 Exhibits and Schedules. All Exhibits and Schedules attached hereto, including the Statement of Work, shall be deemed to be a part of this Agreement and are fully incorporated in this Agreement by this reference. In the event of a conflict between this Agreement and the Statement of Work, the terms of the Statement of Work shall control.

14.13 Rights of Parties. Nothing in this Agreement, whether express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any persons other than the Parties and their respective successors and permitted assigns, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third person to any Party, nor shall any provision give any third person any right of subrogation or action over or against any Party.

14.14 Counterparts. This Agreement may be signed in any number of counterparts, including facsimile copies thereof or electronic scan copies thereof delivered by electronic mail, each of which shall be deemed an original, with the same effect as if the signatures thereto and hereto were upon the same instrument.

14.15 No Licenses. Nothing in this Agreement shall be construed as a grant by Supplier of any right or license whatsoever to Customer under any patent, patent application or other proprietary right now or hereafter owned or controlled by the Customer except to the extent required for Supplier to perform its obligations hereunder.

[*The remainder of this page is intentionally left blank.*]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as evidenced by their signatures below.

BECTON, DICKINSON AND COMPANY

By: _____
Name: [ ]
Title: [ ]

EMBECTA CORP.

By: _____
Name: [ ]
Title: [ ]

Exhibit 10.6

EXECUTION VERSION

Certain confidential information contained in this document, marked by brackets, has been omitted because it is both (i) not material and (ii) would be competitively harmful if publicly disclosed.

CANNULA SUPPLY AGREEMENT

This CANNULA SUPPLY AGREEMENT (together with the Exhibits hereto, this "Agreement"), is made and entered into as of March 31, 2022 (the "Effective Date"), by and between BECTON, DICKINSON AND COMPANY, a corporation organized under the laws of New Jersey, with a place of business at 1 Becton Drive, Franklin Lakes, New Jersey 07417 ("Parent"), and EMBECTA CORP., a corporation organized under the laws of Delaware, with a place of business at 1 Becton Drive, Franklin Lakes, New Jersey 07417 ("SpinCo") (each of Parent and SpinCo individually referred to as a "Party" and collectively referred to as the "Parties").

WHEREAS, Parent is one of the leading suppliers of cannula, which are utilized in various medical devices, including for hypodermics and pen needles for use in the diabetes care sector;

WHEREAS, Parent and SpinCo entered into that certain Separation and Distribution Agreement, dated as of March 31, 2022 (the "Separation and Distribution Agreement"); and

WHEREAS, subject to the Separation and the Distribution Agreement, Parent and SpinCo are entering into this Agreement, pursuant to which SpinCo will purchase from Parent, and Parent will sell to SpinCo, cannulas solely for integration into certain medical devices to be produced and sold by SpinCo for use for the Permitted Purposes (as defined below).

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows.

ARTICLE 1
DEFINITIONS

Each of the capitalized terms in this Agreement (other than the section headings), whether used in singular or plural, shall have the respective meaning as set forth below or, if not listed below, the meaning as designated in other places throughout this Agreement.

1.1 "2022 Base Forecast" means Parent's forecast of Product SKU orders for use for the Permitted Purposes (excluding clause (b) thereof) for the twelve (12)-month period starting on October 1, 2021 and ending on September 30, 2022, which is attached hereto as Exhibit J.

1.2 "2022 Base Forecast Amount" means, with respect to any Product Group or Product SKU, the total units of such Product Group or Product SKU forecast, as the case may be, to be ordered for use for the Permitted Purposes (excluding clause (b) thereof) in the 2022 Base Forecast.

1.3 "Absorption" has the meaning set forth on Exhibit L to this Agreement.

1.4 "Absorption Variance" has the meaning set forth on Exhibit L to this Agreement.

1.5 "Accounting Principles" means those principles set forth on Exhibit G to this Agreement.

1.6 "Affiliate" has the meaning set forth in the Separation and Distribution Agreement.

1.7 "Allowable Purchase Cap" means, subject to Section 6.4(d):

(a) beginning in Year 1 and for each Fiscal Year thereafter until the Yearly Base Forecast for a Fiscal Year is at least [* * *] billion units less than the Applicable Purchase Cap for the previous Fiscal Year: [* * *] billion units of Product, subject to increase under Section 4.7 (the "Maximum Allowable Purchase Cap"), such Allowable Purchase Cap to be apportioned by Product Group based on the proportion of the 2022 Base Forecast Amount for the applicable Product Group to the total 2022 Base Forecast Amount for all Product Groups unless otherwise mutually agreed by the Parties pursuant to Section 4.7; and

(b) beginning in the Fiscal Year in which the Yearly Base Forecast for such Year is at least [* * *] billion units less than the Allowable Purchase Cap for the previous Fiscal Year and for each subsequent Fiscal Year during the Term: 110% of the greater of the Yearly Base Forecast from the immediately prior Fiscal Year or the Yearly Base Forecast from the year immediately prior to such prior Fiscal Year, divided by Product Group based on the proportion of the applicable Yearly Base Forecast Amount for the applicable Product Group to the total Yearly Base Forecast Amount for the applicable Fiscal Year for all Product Groups; *provided* that, with respect to this clause (b), in no Fiscal Year shall the Allowable Purchase Cap for any Product Group be higher than the Allowable Purchase Cap for such Product Group in any prior Fiscal Year (*i.e.*, the Allowable Purchase Cap for each Product Group may decrease but may never increase).

1.8 "Ancillary Agreements" has the meaning set forth in the Separation and Distribution Agreement.

1.9 "Calendar Quarter" means each three (3)-Month period starting on January 1st, April 1st, July 1st or October 1st.

1.10 "Cartridge" means (1) any cartridge used by Parent to package the Products for shipment to SpinCo under this Agreement or (2) any cartridge supplied by Parent to SpinCo for use at a SpinCo facility to transfer third party-sourced cannula from the third party shipping container in accordance with the IP Matters Agreement.

1.11 "Change of Control" means, with respect to a Party, (a) a merger or consolidation of such Party with a Third Party, but only if the voting securities of such Party outstanding immediately prior thereto (or, if such voting securities are converted or exchanged in such merger or consolidation, any securities into which such voting securities have been converted or exchanged) neither represents (x) at least fifty percent (50%) of the combined voting power of the surviving entity of such merger or consolidation nor (y) at least fifty percent (50%) of the ultimate parent of such surviving entity immediately after such merger or consolidation, (b) a transaction or series of related transactions in which a Third Party, together with its Affiliates, becomes the beneficial owner of fifty percent (50%) or more of the combined voting power of the outstanding securities of such Party, or (c) the sale or other transfer to a Third Party, directly or indirectly, of all or substantially all of such Party's assets or business to which the subject matter of this Agreement relates.

[* * *] = [CONFIDENTIAL PORTION HAS BEEN OMITTED BECAUSE IT (I) IS NOT MATERIAL AND (II) WOULD BE COMPETITIVELY HARMFUL IF PUBLICLY DISCLOSED.

1.12 "Fiscal Year" means each twelve (12)-Month period between October 1st and September 30th, *provided* that (a) the first "Fiscal Year" of the Term will commence on the Effective Date and end on the first occurrence of September 30th thereafter and (b) the final "Fiscal Year" of the Term will end on the termination of this Agreement. As used in this Agreement, "Year 1" shall mean the first Fiscal Year of the Term, "Year 2" shall mean the second Fiscal Year of the Term, and so forth.

1.13 "IP Matters Agreement" has the meaning set forth in the Separation and Distribution Agreement.

1.14 "Joint Operations Group" has the meaning set forth in Section 6.3.

1.15 "Laws" has the meaning set forth in the Separation and Distribution Agreement..

1.16 "Lost Mark-up" has the meaning set forth on Exhibit L to this Agreement.

1.17 "Major Supply Failure" means, on a Product SKU-by-Product SKU basis, with respect to a Product SKU, a failure of Parent, for any reason, including a Force Majeure, (a) to deliver during any three (3) successive Months during the Term of this Agreement, fifty percent (50%) of the aggregate quantity of such Product SKU ordered by SpinCo for delivery in accordance with this Agreement during such three (3)-Month period, or (b) to deliver during any six (6) successive Months during the Term of this Agreement, seventy-five percent (75%) of the aggregate quantity of such Product SKU ordered by SpinCo for delivery in accordance with this Agreement during such six (6)-Month period, but, in either case ((a) or (b)), notwithstanding anything to the contrary in this Agreement, excluding any such failure caused by the negligent acts or omissions of SpinCo or breach of this Agreement by SpinCo.

1.18 "Major Supply Failure Termination Event" means, on a Product SKU-by-Product SKU basis, that either (a) Parent is unable to supply at least twenty percent (20%) of the units of the applicable Product SKU forecast to be ordered by SpinCo in its Updated Forecast in the period that is twelve (12) months following commencement of the Major Supply Failure or (b) Parent is unable to supply one hundred percent (100%) of the units of the applicable Product SKU forecast to be ordered by SpinCo in its Updated Forecast in the period that is eighteen (18) months following commencement of the Major Supply Failure.

1.19 "Manufacturing Line IP" has the meaning set forth in the IP Matters Agreement.

1.20 "Mark-Up" has the meaning set forth on Exhibit L to this Agreement.

1.21 "Materials" means Raw Materials and any coatings, lubrications or other materials used in Parent's manufacturing of the Products.

1.22 "Maximum Monthly Purchase" means, with respect to a given Fiscal Year and a Product Group, a quantity of units of such Product Group equal to the Yearly Maximum Purchase for such Product Group in such Fiscal Year, divided by twelve (12).

1.23 "Month" means a calendar month; *provided* that the first Month shall commence on the Effective Date and shall end on the last day of the first full calendar month of the Term and the last Month shall end on the last day of the Term.

1.24 "Monthly Delivery Date" means, with respect to a Month, (a) for Parent's facility in Columbus, Nebraska, the last Monday of such Month, and (b) for Parent's facility in Tuas, Singapore, or Almaraz, Spain, the last business day of such Month.

1.25 "Non-Conforming Use" means the sale, distribution, application or use of any Product: (a) without incorporation into a SpinCo Product (*e.g.*, the resale of standalone units of such Product); (b) with any device, product or system that is not a SpinCo Product; (c) for any purpose other than the manufacture of SpinCo Products for use for the Permitted Purposes; or (d) in any other application or use that is inconsistent with (i) this Agreement, (ii) the intended use of such Product as specified in the Specifications or (iii) the instructions (including handling instructions), if any, for such Product provided in writing by Parent to SpinCo.

1.26 "Permitted Purpose" means: (a) use in the diabetes care sector; (b) sales to Parent for any purpose; (c) use in Public Health Programs at an amount substantially similar to the amount provided for such purpose by Parent immediately prior to the Effective Date; or (d) sales of pen needles and less-than-one-(1)-mL syringes, in each case solely pursuant to relationships between SpinCo and the applicable third parties in effect as of the date hereof, including pursuant to the contracts set forth on Exhibit M; *provided* that any such sales pursuant to this clause (d) shall not exceed $7.5 million in the aggregate in any fiscal year without the consent of Parent.

1.27 "Person" has the meaning set forth in the Separation and Distribution Agreement.

1.28 "Product" means any and all Product SKUs.

1.29 "Product Group" means any and each of the following groups of Products: (a) syringe cannulas; (b) three (3)-bevel pen needles; (c) five (5)-bevel thin-walled pen needles; and (d) five (5)-bevel extra-thin-walled pen needles.

1.30 "Product Price" means, with respect to a Product SKU, the price per unit of such Product SKU at the applicable time as set forth in Section 3.1.

1.31 "Product SKU" means each individual cannula type listed on Exhibit A hereto, and more fully described in the Specifications for such cannula type.

1.32 "Public Health Programs" means government, non-profit and other public health programs designed to provide safe sharps products (e.g., syringes), including SpinCo Products, for users of such products who have limited access to sterile and safe sharps products.

1.33 "Raw Materials" means stainless steel, including any additives, in such applicable grades as used to manufacture the Products.

1.34 "Representatives" mean the employees, directors, officers, consultants, agents, representatives and advisors (including attorneys and accountants) of a Person.

1.35 "Specifications" means, with respect to each Product SKU, those specifications for such Product SKU attached as Exhibit B to this Agreement, as the same may be modified or supplemented from time to time as contemplated by Section 8.5.

1.36 "SpinCo Product" means any product that (a) is listed on Exhibit C hereto, (b) is developed, manufactured, marketed, offered for sale and/or sold by or on behalf of SpinCo for use for the Permitted Purposes, and (c) incorporates either (i) any Product or (ii) a third party supplier's cannula if, with respect to this clause (ii), the product is made using Manufacturing Line IP.

1.37 "Supply Failure" means, on a Product SKU-by-Product SKU basis, with respect to a Product SKU, (a) a Major Supply Failure or (b) a failure of Parent, for any reason, including a Force Majeure, to deliver those units of such Product SKU ordered by SpinCo that are required to be delivered by Parent in accordance with this Agreement (including Section 4.3 and Section 5.2), for more than thirty (30) days past the applicable Monthly Delivery Date, but, notwithstanding anything to the contrary in this Agreement, excluding any such failure caused by the negligent acts or omissions of SpinCo or breach of this Agreement by SpinCo.

1.38 "Termination Period" means the period of thirty-six (36) months immediately preceding the effective date of any termination pursuant to Section 13.2 or Section 13.3.

1.39 "Termination Year" means each of the three (3) twelve (12)-month periods during the Termination Period.

1.40 "Third Party" has the meaning set forth in the Separation and Distribution Agreement.

1.41 "Visit CDA" means the Confidential Disclosure Agreement for Facility Visits, the form of which has been agreed by the Parties and is attached hereto as Exhibit F, which form shall be executed and delivered by SpinCo prior to any inspection or audit of Parent's facilities as contemplated under this Agreement.

1.42 "Yearly Base Forecast Amount" means, with respect to any Product Group or Product SKU in any Fiscal Year, the total units of such Product Group or Product SKU, as the case may be, set forth in the Yearly Base Forecast for such Fiscal Year.

1.43 Additional Defined Terms. In addition to the terms defined above in this Article 1, the following terms have the respective meanings assigned thereto in the sections indicated below:

Defined Term	Section
"Additional Equipment"	Section 3.5
"Agreement"	Preamble
"Capital Expenditures"	Section 3.5
"Confidential Information"	Section 9.1
"Debarred"	Section 8.6
"Disclosing Party"	Section 9.1
"Disqualified"	Section 8.6
"Effective Date"	Preamble
"Excluded"	Section 8.6
"Export Control Laws"	Section 10.6(a)
"Field Action"	Section 8.7
"Force Majeure"	Article I of the Separation and Distribution Agreement

“Indemnitee”	Article I of the Separation and Distribution Agreement
“Indemnifiying Party”	Article I of the Separation and Distribution Agreement
“Ineligible”	Section 8.6
“Maximum Allowable Purchase Cap”	Section 1.7(a)
“Joint Operations Group”	Section 6.3
“Latent Nonconformance”	Section 7.2
“Liability Cap”	Section 12.5
“Minimum Purchase Commitment”	Section 2.2(a)
“Nonconformance”	Section 7.2
“Party” and “Parties”	Preamble
“Personnel”	Section 8.6
“Potential Additional SpinCo Product”	Section 2.5
“Pricing Date”	Section 3.1(b)
“Purchase Order”	Section 4.2
“Receiving Party”	Section 9.1
“Parent”	Preamble
“Parent Indemnitees”	Article I of the Separation and Distribution Agreement
“Parent Safety Stock”	Section 6.1
“Rolling Forecast”	Section 4.1
“Safety Laws”	Section 10.2
“Safety Products”	Section 10.2
“Separation and Distribution Agreement”	Recitals
“SpinCo”	Preamble
“SpinCo Idemnitees”	Section 11.1
“SpinCo Safety Stock”	Section 6.2
“Term”	Section 13.1
“Termination Base Year”	Section 4.6(b)(i)
“Termination Purchase Commitment”	Section 2.2(b)
“Third-Party Claim”	Section 4.5(a) of the Separation and Distribution Agreement
“Transferring”	Section 10.6(a)
“Updated Forecast”	Section 6.4(d)(iii)
“U.S. Laws”	Section 10.6
“Unauthorized Access”	Section 9.11
“Year 1” “Year 2” “Year 3”	Section 1.12
“Yearly Base Forecast”	Section 3.1(b)
“Yearly Maximum Purchase”	Section 4.6

ARTICLE 2
PURCHASE AND SALE; MINIMUM PURCHASE COMMITMENTS

2.1 Purchase and Sale of Product. During the Term, SpinCo agrees to purchase certain quantities of Product from Parent in compliance with the Purchase Commitments, and Parent agrees to sell such quantities to SpinCo, in each case, subject to the terms and conditions of this Agreement. SpinCo agrees that the Product will be used solely for incorporation into SpinCo Products for use for the Permitted Purposes, and for no other purpose (including any Non-Conforming Use).

2.2 Minimum Yearly Purchase Commitment.

(a) Subject to Section 2.2(b), each Yearly Base Forecast submitted by SpinCo pursuant to Section 3.1(b) shall include at least such units of each Product SKU as follows (each, a "Purchase Commitment"):

(i) subject to Section 2.2(a)(ii), during each of Year 1, Year 2, Year 3, Year 4 and Year 5, such quantity of each Product SKU as is equal to the 2022 Base Forecast Amount with respect to such Product SKU; *provided* that, for the Purchase Commitment for Year 1, the units of each Product SKU utilized by Parent's diabetes care unit between October 1, 2021 and the Effective Date and set forth in Schedule 2.2(a)(i) shall count towards such Purchase Commitment; and

(ii) during Year 6, all subsequent Fiscal Years during the Term, and any period subject to an Updated Forecast that modified a Yearly Base Forecast under Section 6.4(d)(iii), [* * *] billion units of Product, apportioned among the Product SKUs in accordance with the proportion of each Product SKU ordered by SpinCo in the prior Fiscal Year.

For clarity, SpinCo's obligations to satisfy the Purchase Commitments for any Fiscal Year or Termination Year shall be without limitation of SpinCo's obligations to comply with its Yearly Base Forecasts under Section 3.1, Article 4 and Section 4.8.

(b) If, at any time during the Term, SpinCo submits a Yearly Base Forecast that is inconsistent with the applicable Purchase Commitment, then:

(i) if such Yearly Base Forecast is submitted for Year 2, Year 3, Year 4 or Year 5, then the provisions of Section 4.8(a) will apply; and

(ii) if such Yearly Base Forecast is submitted for Year 6 or any subsequent Fiscal Year during the Term, then the provisions of Section 13.2 will apply.

(c) Notwithstanding the foregoing, if this Agreement is terminated (a) by either Party for convenience under Section 13.3 or (b) automatically for SpinCo's failure to submit a Rolling Forecast satisfying the applicable Purchase Commitment under Section 13.2, then, without limiting any of SpinCo's obligations to purchase Product consistent with its Yearly Base Forecast and Rolling Forecasts in accordance with Section Article 4 and Section 4.8, SpinCo shall have the following minimum purchase obligations during the Termination Period (each, a "Termination Purchase Commitment") in lieu of the Purchase Commitments set forth above in Section 2.2(a):

(i) during the first Termination Year, SpinCo shall purchase at least such units of each Product SKU as are equal to 75% of the otherwise applicable Purchase Commitment for such Product SKU;

[* * *] = [CONFIDENTIAL PORTION HAS BEEN OMITTED BECAUSE IT (I) IS NOT MATERIAL AND (II) WOULD BE COMPETITIVELY HARMFUL IF PUBLICLY DISCLOSED.

(ii) during the second Termination Year, SpinCo shall purchase at least such units of each Product SKU as are equal to 50% of the otherwise applicable Purchase Commitment for such Product SKU; and

(iii) during the final Termination Year, SpinCo shall purchase at least such units of each Product SKU as are equal to 25% of the otherwise applicable Purchase Commitment for such Product SKU.

For the avoidance of doubt, if any such Termination Year straddles Year 5 and Year 6, the Termination Purchase Commitment with respect to such Termination Year shall be calculated based on the portion of such Termination Year corresponding to each such Fiscal Year and pro-rating the Purchase Commitment applicable to each such portion.

2.3 Alternative Suppliers. For the avoidance of doubt, SpinCo may contract with other suppliers at any time after the Effective Date to manufacture and supply any cannula that is either listed or not listed on Exhibit A for use in any industry, subject to SpinCo's compliance with the Purchase Commitments or, as applicable, the Termination Purchase Commitments and the IP Matters Agreement.

2.4 Additional Products. If SpinCo desires for Parent to manufacture and supply any cannula for use for any Permitted Purpose and such cannula is not then listed on Exhibit A, SpinCo shall provide written notice thereof to Parent. Parent may, in its sole discretion, consent to manufacture and supply such cannula, in which case the Parties shall add such cannula to Exhibit A as a new Product SKU (and such Product SKU will be placed into the appropriate Product Group (including an additional Product Group)); *provided*, *however*, that, with respect to the cannula set forth on Exhibit K in development by Parent prior to the Effective Date, Parent shall consent to manufacture and supply such cannula, on mutually agreeable terms including pricing terms in accordance with the Accounting Principles. In the event that Parent consents to manufacture and supply any new Product SKU, the Parties will negotiate in good faith the price and other terms and conditions applicable to such manufacture and supply under this Agreement. For the avoidance of doubt, (a) Parent will have no obligation to manufacture and supply to SpinCo any such new Product SKU unless and until the Parties have updated Exhibit A to include such new Product SKU and have agreed on all terms and conditions applicable to the manufacture and supply of such new Product SKU under this Agreement and (b) due to the non-exclusive arrangement of this Agreement and subject to SpinCo's Purchase Commitments or, as applicable, the Termination Purchase Commitment, SpinCo shall have no obligation to request that Parent manufacture and supply any cannula for use for the Permitted Purposes (or otherwise), which cannula is not then listed on Exhibit A.

2.5 Additional SpinCo Products. If SpinCo desires to incorporate Product into an end product developed, manufactured, marketed, offered for sale and/or sold by SpinCo or its Affiliates for use for any Permitted Purpose, but that is not then listed on Exhibit C (a "Potential Additional SpinCo Product"), SpinCo shall provide written notice thereof to Parent within a reasonable amount of time (but no less than ninety (90) days) prior to the date that SpinCo intends to commence incorporating such Product into the applicable Potential Additional SpinCo Product. Unless Parent is restricted, by applicable Laws or existing contractual obligations, from supplying Product to SpinCo for incorporation into such Potential Additional SpinCo Product, such Potential Additional SpinCo Product shall become a SpinCo Product and the Parties shall update Exhibit C to include such new SpinCo Product.

2.6 Discontinued Product. Parent will not discontinue the manufacture and supply of any Product SKU without SpinCo's prior written consent. Following SpinCo's consent, if applicable, the Parties shall update Exhibit A to remove such Product SKU, and SpinCo shall no longer have the right to place Purchase Orders with respect to such Product SKU.

ARTICLE 3
PURCHASE PRICE

3.1 Purchase Price.

(a) With respect to Year 1, for each Product SKU purchased by SpinCo from Parent, SpinCo shall pay to Parent the price for such Product SKU as set forth in Exhibit D attached hereto, subject to any applicable adjustments set forth in this Article 3.

(b) With respect to each Fiscal Year during the Term following Year 1, on or before May 31 of the prior Fiscal Year, SpinCo shall submit to Parent an initial forecast of orders by Product SKU for such Fiscal Year, which must be consistent, with respect to all applicable Months, to the Rolling Forecast last submitted by SpinCo (subject to the permitted variances under Section Article 4) and shall be deemed to be the Rolling Forecast for the period starting on October 1 of such Fiscal Year and ending on September 30 of such Fiscal Year (each such forecast and, with respect to Year 1, the 2022 Base Forecast, a "Yearly Base Forecast"). Parent shall thereafter update the price list set forth on Exhibit D to reflect any changes to the pricing for each Product SKU based on the Yearly Base Forecast for such Fiscal Year and the Accounting Principles, and shall submit such updated price list to SpinCo, with reasonably detailed documentation supporting any changes, no later than June 30 of the Fiscal Year in which such Yearly Base Forecast was submitted (the "Pricing Date"). Such updated price list shall be deemed to be attached to this Agreement as Exhibit D, and shall supersede and replace the prior version of Exhibit D, effective as of the start of the applicable Fiscal Year. In the event that SpinCo notifies Parent on or before July 31 of a Fiscal Year that the Product Price for one or more Product SKUs on the updated price list submitted by Parent for the subsequent Fiscal Year does not reflect changes consistent with the Accounting Principles, the Chief Financial Officers (or officers with equivalent duties) of each of the Parties will discuss and work in good faith to resolve the dispute within ten (10) business days. If such officers cannot resolve the matter within such time period, either Party can escalate the matter to an independent third party auditor mutually agreed upon by the Parties. Any such independent third party auditor will only be charged with determining whether the disputed Product Price(s) has been calculated in a manner consistent with Accounting Principles and, if not, what such Product Price(s) should be if calculated in such a manner. The determination of such independent third party auditor shall be binding upon the Parties and such auditor will be instructed and authorized by the Parties to issue a binding resolution to the dispute no later than September 30 (i.e., prior to the Fiscal Year for which the price list is relevant). In the event that, despite the foregoing sentence, a Product Price for a Product SKU is not determined by September 30, during the pendency of the dispute resolution procedure, the Product Price for such Product SKU shall be the higher of (i) the applicable Product Price for such Product SKU during the most recent Fiscal Year and (ii) SpinCo's determination of the Product Price for such Product SKU in its application of the Accounting Principles and, following resolution of the disputed prices, Parent will apply a credit to future invoices issued to SpinCo under this Agreement if the Product Price for such Product SKU is determined to be lower and Parent will invoice SpinCo for any underpaid amount if the Product Price for such Product SKU is determined to be higher, in each case when compared to the Product Price for such Product SKU during the dispute.

3.2 Stainless Steel Cost Adjustment. If, in any Fiscal Year, the cost of stainless steel increases or decreases by more than five percent (5%) as compared to the cost of stainless steel as of the Pricing Date for such Fiscal Year, as determined based on the MEPS Stainless Steel 304 index, then Parent shall adjust the Product Price for each Product SKU by an amount reflecting the aggregate increase or decrease in the cost of stainless steel, on a pro-rata basis based on the cost of stainless steel in proportion to the overall Product Price for each Product SKU. Parent shall notify SpinCo in writing of any such Product Price adjustment due to the cost of stainless steel by submitting an updated price list to SpinCo at least fifteen (15) days prior to the start of the next Calendar Quarter. Such updated price list shall be deemed to be attached to this Agreement as Exhibit D, and shall supersede and replace the prior version of Exhibit D, effective as of the start of the next Calendar Quarter. Following an initial adjustment of the Product Price for a Product SKU under this Section 3.2 in a Fiscal Year, Parent shall adjust the Product Price for such Product SKU through the same mechanic as set forth above if there are further increases or decreases to the cost of stainless steel in such Fiscal Year, as determined based on the MEPS Stainless Steel 304 index; *provided* that Parent will not make any such changes unless the further increase or decrease, as applicable, in the cost of stainless steel in such Fiscal Year exceeds 0.5% as compared to the cost of stainless steel as of the date of the last adjustment pursuant to this Section 3.3. For the avoidance of doubt, any increase or decrease in the cost of stainless steel, as determined based on the MEPS Stainless Steel 304 index, between the Pricing Date and the start of the subsequent Fiscal Year that would give rise to a Product Price adjustment under this Section 3.3 shall not be reflected in the Product Price for each Product SKU until the second Calendar Quarter of such Fiscal Year.

3.3 Regulatory Cost Adjustment. In addition to the price adjustments set forth in Section 3.2, if, at any time during the Term, there is a change in applicable Law or other legal or regulatory requirement that alters the costs of manufacture of a Product SKU, then Parent shall adjust the Product Price for such Product SKU by an amount reflecting any related adjustment to the costs allocable to the manufacture of such Product SKU, *provided* that, if such change in applicable Law or other legal or regulatory requirement alters the costs of manufacture of both one or more Product SKU(s) and one or more other product(s) of Parent that are not Products, the applicable costs will be equitably allocated between or among such Product SKU(s) and such other product(s). Parent shall promptly notify SpinCo in writing of any such Product Price adjustment due to a change in applicable Law or other legal or regulatory requirement by submitting an updated price list to SpinCo at least fifteen (15) days prior to the start of the next Month. Such updated price list shall be deemed to be attached to this Agreement as Exhibit D, and shall supersede and replace the prior version of Exhibit D, effective as of the start of the next Month. Upon request, Parent will provide SpinCo with such documentation as SpinCo may reasonably request itemizing and evidencing the increase or decrease in costs based on such change to the manufacturing process and the allocation thereof to the manufacture of the Products.

3.4 Cost Improvement Program. Parent will continue its cost improvement program for cannula manufacturing, with the goal, but not a guarantee, of cost reduction. The Joint Operations Group shall discuss cannula production cost improvements in its quarterly meetings until commencement of the Termination Period. The Parties will also discuss in good faith appropriate allocations of any resulting savings, including potential impact on Product Price, after deducting actual, direct and documented costs of the improvement implementation, with any such allocations to be mutually agreed upon by the Parties.

3.5 Capital Cost Recovery. If, at any time during the Term, Parent invests in any new capital expenditures to satisfy increased demand from SpinCo or to manufacture a new Product SKU as contemplated by Section 2.4 ("Capital Expenditures"), including new equipment, molds, mold presses, and associated testing ("Additional Equipment"), then the remaining unamortized amount of such Capital Expenditures shall be treated as follows, at SpinCo's election: (a) on or after the effective date of termination, Parent shall invoice SpinCo for such amount, less the salvage value of the applicable Additional Equipment (as reasonably demonstrated by documentation provided by Parent to SpinCo, which documentation shall constitute Confidential Information of Parent), and SpinCo shall pay to Parent such invoiced amount within thirty (30) days of receipt of such invoice, or (b) such amount will be divided among and added to the Product Price for SpinCo's remaining purchases during the Termination Period, as applicable; *provided*, *however*, that Parent shall use reasonable efforts to reduce the remaining unamortized amount of such Capital Expenditures by utilizing, to the extent reasonably practicable, the Additional Equipment or components thereof in Parent's other businesses, in which case such remaining unamortized amount shall be reduced to account for such alternative utilization. Upon SpinCo's request, Parent will confirm as to whether any such alternative utilization has occurred and the applicable calculation of such remaining unamortized amount in light of such utilization. For the avoidance of doubt, Parent shall be responsible for the costs of maintenance, upkeep and replacement, as applicable, of any Parent equipment used in the manufacture of Products as of the Effective Date.

3.6 Expediting Costs. Any incremental costs for the manufacture and supply of Product resulting from a requirement to expedite such manufacture and supply shall be borne exclusively by the Party responsible for such requirement.

3.7 Pricing Commitment. At all times during the Term, the Product Price for each Product SKU hereunder shall be no less favorable than the price contemporaneously charged by Parent to any similarly situated, unaffiliated third party customer (for clarity, not including any subcontractor engaged by Parent or its Affiliates) that purchases equal to or less than a similar volume of such Product SKU over the course of a contemporaneous twelve-month period. Any change in a Product Price pursuant to this clause will only be applied on a prospective basis.

ARTICLE 4
FORECASTS AND ORDERS

4.1 Rolling Forecast. SpinCo shall furnish Parent with a rolling twelve (12)-Month forecast of SpinCo's Product orders by Product SKU (the "Rolling Forecast"). The Rolling Forecast shall be updated monthly and provided to Parent by the fifteenth (15th) day of the Month prior to the first Month of such Rolling Forecast; *provided*, *however*, that the Yearly Base Forecast will be deemed to be the Rolling Forecast that would otherwise be submitted on September 15th of the Fiscal Year in which the Yearly Base Forecast was submitted. All Rolling Forecasts must be consistent with the applicable Yearly Maximum Purchase and Maximum Monthly Purchase. The initial Rolling Forecast is attached to this Agreement as Exhibit E. The first two (2) Months of each Rolling Forecast shall be binding upon SpinCo by Product Group and, except as otherwise agreed by the Parties, by Product SKU. Months three (3) through twelve (12) of each Rolling Forecast are non-binding; *provided*, *however*, that:

(a) on a Product Group-basis, any revisions in a subsequent Rolling Forecast to Months three (3) through twelve (12) of the prior Rolling Forecast with respect to a Product Group will require, and will not be effective without, the following advance notice in writing from SpinCo to Parent: (i) for revisions less than two percent (2%) to the amount of such Product Group to be ordered in a Month, one (1) month's advance notice, (ii) for revisions between two percent (2%) and five percent (5%) to the amount of such Product Group to be ordered in a Month, three (3) months' advance notice and (iii) for revisions over five percent (5%) to the amount of such Product Group to be ordered in a Month, six (6) months' advance notice; and

(b) on a Product SKU-basis, any revisions in a subsequent Rolling Forecast to Months three (3) through twelve (12) of the prior Rolling Forecast with respect to a Product SKU within a specified Product Group will require, and will not be effective without, the following advance notice in writing from SpinCo to Parent: (i) for revisions less than ten percent (10%) to the amount of such Product SKU to be ordered in a Month, no advance notice (*i.e.*, such change may be made in the applicable Purchase Order), (ii) for revisions between ten percent (10%) and twenty-five percent (25%) to the amount of such Product SKU to be ordered in a Month, three (3) months' advance notice and (iii) for revisions between twenty-five percent (25%) and fifty percent (50%) to the amount of such Product SKU to be ordered in a Month, six (6) months' advance notice.

To the extent that a Rolling Forecast is not communicated by SpinCo by the fifteenth (15th) day of the then-current Month, the Parties agree that the Rolling Forecast issued in the previous Month will be given effect as if it were submitted in the current Month (with Months shifted as needed to adjust for the fact that the Rolling Forecast was issued for a prior Month).

4.2 Purchase Orders. Purchase orders for Product under this Agreement (each, a "Purchase Order") shall be delivered monthly by SpinCo to Parent no more than three (3) months and no less than two (2) months prior to the Monthly Delivery Date, and shall indicate orders by Product SKU and Product Group. Notwithstanding anything to the contrary in this Agreement, in no event shall any individual SpinCo facility issue more than one (1) Purchase Order in any Month. All orders of a Product SKU shall be by units of such Product SKU, and Parent will fill such orders to the nearest complete Cartridge of such Product SKU, in accordance with the procedure set forth on Exhibit H.

4.3 Purchase Order Confirmation. Parent shall confirm or, subject to the terms of this Agreement, reject, each Purchase Order within fifteen (15) days of receipt, which confirmation, if given, shall confirm the applicable Month of delivery, the quantity of each Product SKU ordered and the applicable Product Price therefor. Parent shall not have the right to reject any Purchase Order that is consistent with the most recent binding forecast applicable to such Month; *provided*, *however*, that if any Purchase Order contains (a) quantities of a Product Group in excess of the Maximum Monthly Purchase for the applicable Month for such Product Group or (b) quantities of a Product SKU in excess of the most recent binding forecast for such Month for such Product SKU in the Rolling Forecast, Parent shall have no obligation to supply such excess quantities except to the extent it confirms in writing to SpinCo its agreement, in its sole discretion (and subject to such pricing as may be negotiated by the Parties), to supply such excess quantities (in whole or in part).

4.4 Delivery Date. In addition, with respect to each Purchase Order confirmed by Parent, no later than one (1) week prior to the delivery date with respect to any Product SKUs set forth in such Purchase Order, Parent shall confirm electronically to SpinCo (a) such delivery date with respect to such Product SKUs, which shall in no event be later than the Monthly Delivery Date for the applicable Month, (b) the location of such delivery (*i.e.*, Parent's facility in Columbus, Nebraska, Almaraz, Spain and/or Parent's facility in Tuas, Singapore) and (c) the approximate units of Product SKUs set forth in such Purchase Order that will be delivered on such date at such location.

4.5 Monthly Shortfalls. Subject to Section 6.4, if, in any Month, the quantities of Product, by Product SKU, ordered in all Purchase Orders submitted in such Month are less than the quantities of such Product SKU set forth in the binding forecast for such Month submitted under Section Article 4, SpinCo must order such shortfall amount of units of such Product SKU in Purchase Orders submitted in the next two (2) Months following the Month in which such shortfall amount arose, subject to the applicable Maximum Monthly Purchase. To the extent SpinCo fails to order such shortfall amount during such two (2) month period, SpinCo will be deemed to have issued to Parent a Purchase Order for the units of each Product SKU that are subject to such shortfall, subject to the applicable Maximum Monthly Purchase, Parent will deliver such units of Product SKU pursuant to such deemed Purchase Order in accordance with the terms of this Agreement and SpinCo will pay the Product Price for such units of Product SKU in accordance with this Agreement.

4.6 Yearly Maximum Purchase. Notwithstanding anything contained in a Rolling Forecast or this Agreement to the contrary, except as otherwise mutually agreed by the Parties in writing, Parent shall have no obligation, in any Fiscal Year, to supply Products to SpinCo, by Product Group, in excess of the following quantities (each, a "Yearly Maximum Purchase"):

(a) during each Fiscal Year other than a Termination Year, such quantity of each Product Group as is equal to 110% of the Yearly Base Forecast Amount for such Product Group for such Fiscal Year, *provided* that, for clarity, Products supplied to SpinCo under the 2022 Base Forecast prior to the Effective Date shall be deemed supplied to SpinCo for purposes of determining whether the Yearly Maximum Purchase for Year 1 has been achieved;

(b) notwithstanding clause (a), during the Termination Period, such quantity as follows:

(i) during the first Termination Year, such quantity of units of each Product Group as is (1) with respect to the period of such Termination Year that coincides with a Fiscal Year for which there is a Yearly Base Forecast, the Yearly Base Forecast Amount of such Product Group for the remainder of such Fiscal Year that falls within such Termination Year and (2) for the remainder of such Termination Year (if any), seventy-five percent (75%) of the Allowable Purchase Cap for such Product Group in such Fiscal Year immediately prior to the Fiscal Year in which the notice (or deemed notice) of termination occurred (the "Termination Base Year"), pro-rated for such remainder of the Termination Year;

(ii) during the second Termination Year, such quantity of units of each Product Group as is equal to fifty percent (50%) of the Allowable Purchase Cap for such Product Group in the Termination Base Year; and

(iii) during the final Termination Year, such quantity of units of each Product Group as is equal to twenty-five percent (25%) of the Allowable Purchase Cap for such Product Group in the Termination Base Year;

provided that, except as otherwise mutually agreed by the Parties in writing or under Section 6.4(d)(iv), the Yearly Maximum Purchase for each Fiscal Year shall be subject to the Allowable Purchase Cap.

4.7 Capacity Increases. Notwithstanding anything to the contrary in this Agreement, until SpinCo's first delivery of a Yearly Base Forecast that includes at least [* * *] billion units of Product less than the Maximum Allowable Purchase Cap, SpinCo may notify Parent no more than once per twelve (12)-month period during the Term that SpinCo desires for Parent to increase its manufacturing capacity and make a corresponding increase to the Maximum Allowable Purchase Cap and the Yearly Maximum Purchases for one or more Product Groups and corresponding Product SKUs. Following the Parties' agreement upon mutually agreeable terms with respect to any such capacity increase, including the allocation of costs with respect thereto and the anticipated timing of completion thereof (which shall be no less than [* * *] months from the date of such agreement), Parent will undertake such capacity increase in accordance with such agreed terms, at a facility of Parent's choosing, subject to the timely payment by SpinCo of all costs allocated to SpinCo associated therewith; *provided* that at no time will Parent have any obligation to increase its manufacturing capacity to produce more than [* * *] billion units of Product in any [* * *] month period.

4.8 Annual Reconciliations.

(a) If, with respect to a Fiscal Year, SpinCo has failed to submit a Yearly Base Forecast for each Product SKU that is equal or more than the Purchase Commitment (or Termination Purchase Commitment, as applicable) for such Product SKU for such Year, following the end of such Fiscal Year, the Joint Operations Group shall review the aggregate Product ordered by SpinCo by Product SKU and the Mark-Up received by Parent based on such orders in such Fiscal Year (treating as received any Mark-Up that was not received on account of any underruns pursuant to Section 5.2). If Parent has received less than one hundred percent (100%) of the Mark-Up for a Product SKU that Parent would have received had SpinCo submitted and complied with a Yearly Base Forecast for such Product SKU equal to the Purchase Commitment for such Product SKU for such Fiscal Year, then SpinCo will pay to Parent a payment that will be calculated, on a Product SKU-by-Product SKU basis, as the Lost Mark-up for such Fiscal Year as a result of such failure. Any amount owed by SpinCo under this Section 4.8(a) shall be payable by SpinCo within ninety (90) days of receipt of an invoice therefor from Parent.

(b) Following the end of each Fiscal Year of this Agreement, in the event that SpinCo failed to order any Product SKU in the quantities set forth in the Yearly Base Forecast for such Fiscal Year, the Joint Operations Group shall review the aggregate Product ordered by SpinCo by Product SKU and the Absorption and Mark-Up received by Parent based on such orders in such Fiscal Year (treating as received any Absorption or Mark-Up that was not received on account of any underruns pursuant to Section 5.2). If Parent has received less than one hundred percent

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(100%) of either or both of the Absorption or Mark-Up with respect to a Product SKU that Parent would have received had SpinCo complied with the Yearly Base Forecast for such Product SKU for such Fiscal Year, then SpinCo will pay to Parent a payment that will be calculated, on a Product SKU-by-Product SKU basis, as (a) the Absorption Variance for such Fiscal Year (if any), *plus* (b) the Lost Mark-up for such Fiscal Year (if any and to the extent not owed under Section 4.8(a)), in each case ((a) and (b)), as a result of such shortfall. Notwithstanding the foregoing, if a Major Supply Failure occurs and the Updated Forecast modifies the Yearly Base Forecast under Section 6.4(d)(iii), the annual reconciliation under this Section 4.8(b) shall not occur until following the end of the twenty-four (24)-month period covered by the Updated Forecast, and at such time shall occur with respect to all periods between the last such annual reconciliation and the end of such twenty-four (24)-month period (and thereafter, the annual reconciliation shall be conducted following each Fiscal Year in accordance with this Section 4.8(b)). Any amount owed by SpinCo under this Section 4.8(b) shall be payable by SpinCo within ninety (90) days of receipt of an invoice therefor from Parent.

4.9 Conflicts. No provision in any Purchase Order, Purchase Order confirmation or invoice that purports to impose different or additional terms or conditions than those set forth in this Agreement shall be of any force or effect.

ARTICLE 5
SHIPMENT AND DELIVERY; INVOICES

5.1 Delivery. Any Product supplied under this Agreement shall be delivered FCA (*Incoterms 2010*) Parent's facility in Columbus, Nebraska, or Tuas, Singapore, as applicable, or at BD's discretion, pen needle Product supplied under this Agreement intended for Dun Laoghaire or Suzhou 3 may be delivered FCA Parent's facility in Almaraz, Spain. SpinCo, at its own expense, shall be responsible for loading, transporting, and if applicable, exporting the Product from the foregoing location to SpinCo's facility. Title to Product and risk of loss or damage shall pass to SpinCo upon delivery to SpinCo, or its agents, FCA (*Incoterms 2010*) Parent's facility in accordance with this Section.

5.2 Overruns and Underruns. Notwithstanding anything to the contrary in this Agreement, on a Product SKU-by-Product SKU basis, the permissible overrun and underrun of a given Product SKU delivered by Parent in any given Month shall not exceed plus or minus five percent (5%) of the confirmed, aggregate amount of units of such Product SKU actually ordered in that Month, *provided* that the yearly overrun or underrun may not exceed plus or minus two percent (2%) of the confirmed, aggregate amount of units of such Product SKU actually ordered in any Fiscal Year. For the avoidance of doubt, such permitted overrun and underrun amounts will be calculated on a Product SKU-by-Product SKU (not manufacturing site-by-manufacturing site) basis.

5.3 Cartridges. At all times, Parent shall retain title to the Cartridges, and SpinCo acknowledges and agrees that such Cartridges are proprietary to Parent. In no event shall SpinCo transfer any Cartridge to a third party or show or provide access to a Cartridge to a third party. SpinCo shall solely use Cartridges pursuant to Parent's written instructions. SpinCo shall return empty Cartridges to Parent on a periodic basis as directed by Parent, at Parent's cost. All intellectual property covering or embodied in the Cartridge, as well as the tangible Cartridge itself is considered the "Restricted Confidential Information" of Parent.

5.4 Cannula Lubricant. For [* * *] years following the Effective Date (unless otherwise terminated by SpinCo), Parent shall supply to SpinCo cannula lubricant, such cannula lubricant to be solely used in manufacturing lines incorporating Manufacturing Line IP and for the sole purpose of manufacturing Products or any cannula supplied to SpinCo by an alternate third party supplier, subject to the IP Matters Agreement, on the terms and subject to the conditions set forth on Exhibit I hereto.

5.5 Invoices. Parent shall invoice SpinCo for the delivered quantity upon each delivery of Product, and SpinCo shall pay the full balance of each invoice in US Dollars within ninety (90) days after delivery by Parent to SpinCo. All such invoices shall be forwarded to the attention of the following:

Brian Capone
VP, Corporate Controller and Chief Accounting Officer – embecta
1 Becton Drive (F-425)
Franklin Lakes, NJ 07417
email: brian.capone@bd.com

5.6 Taxes. To the extent that Products purchased under this Agreement are subject to any consumption-based taxes (e.g., sales, use and/or value-added taxes), payment of such taxes is the responsibility of SpinCo. Parent shall have the right to withhold taxes where required to do so by applicable Laws.

ARTICLE 6
ASSURANCE OF SUPPLY

6.1 Parent Safety Stock. During the Term of this Agreement, Parent agrees to hold and store approximately [* * *] weeks of safety stock of Products, on a Product Group basis ("Parent Safety Stock"). Parent may adjust the amount of Parent Safety Stock to reflect material changes in Product volume as may be indicated in the Rolling Forecast. During the Term of this Agreement, at Parent's option, the Parent Safety Stock may be used to satisfy Purchase Orders in excess of the Yearly Maximum Purchase or the Maximum Monthly Purchase, or to avoid or remedy a Supply Failure. Parent shall use its commercially reasonable efforts to replenish any Parent Safety Stock as soon as possible following its use thereof, but in any event no later than three (3) months following such use.

6.2 SpinCo Safety Stock. During the Term of this Agreement, SpinCo agrees to hold and store no less than [* * *] weeks of safety stock of Products, on a Product Group basis ("SpinCo Safety Stock"). SpinCo shall routinely update the SpinCo Safety Stock to reflect SpinCo's changing volume requirements. During the Term of this Agreement, unless otherwise agreed to by Parent, upon Parent's notification of a Supply Failure, SpinCo shall use the SpinCo Safety Stock to fulfill any undelivered Product in accordance with the Rolling Forecast in effect for the Month in which the notification occurred. Following the resolution of any Supply Failure, SpinCo shall replenish any SpinCo Safety Stock as soon as possible following its use thereof, but in any event no later than six (6) months following such use, and subject to the Yearly Maximum Purchases (and, for clarity, it shall not constitute a breach of this Section 6.2 if SpinCo is unable to replenish any SpinCo Safety Stock within such six (6)-month period as a result of the Yearly Maximum Purchases, *provided* that SpinCo replenishes such SpinCo Safety Stock as soon as possible in light of the Yearly Maximum Purchases).

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6.3 Joint Operations Group. Promptly following the Effective Date, the Parties shall form a joint operations group (the "Joint Operations Group"). The Joint Operations Group will be comprised of three representatives from each Party, who will meet at least once quarterly, in each case, by telephone, videocall or in person. Each Party may change its representatives on the Joint Operations Group by written notice to the other Party. The Joint Operations Group will discuss any concerns, issues, cost improvements, long-term volume requirements and capacity issues by Product SKU or performance updates, and will have such other responsibilities as are set forth in this Agreement. The Joint Operations Group is intended to facilitate communication between the Parties and to aid the Parties in long-range planning but shall have no power to bind either Party or modify the terms of this Agreement.

6.4 Supply Failures.

(a) Notice. Parent shall promptly notify SpinCo of any event that appears reasonably likely to result in a Supply Failure with respect to a Product SKU.

(b) Remediation Plan. Within five (5) business days of Parent's notification to SpinCo under Section 6.4(a), Parent will prepare a remediation plan intended to resolve the Supply Failure within thirty (30) days of such notification and will inform SpinCo of such plan in reasonable detail, subject to redaction for highly sensitive or trade secret information. If such Supply Failure involves a partial (but not total) inability to supply ordered Product SKU due to a shortage of Raw Materials or a shortage of such Product SKU, Parent will include in such remediation plan a proposal for an equitable allocation of Raw Materials or units of such Product SKU among all of Parent's requirements with respect to such Raw Materials or Products, *pro rata* based on SpinCo's usage and any other usage of such Raw Materials or Products for the twelve (12)-month period prior to such Supply Failure, and will use commercially reasonable efforts to carry out such equitable allocation. Parent shall keep SpinCo reasonably informed of Parent's progress in executing on any such remediation plan.

(c) Effects of Major Supply Failure. Notwithstanding anything provided herein to the contrary, if a Major Supply Failure occurs, SpinCo will be excused from (i) the Purchase Commitments (or Termination Purchase Commitments, as applicable), (ii) SpinCo's obligation to comply with the Yearly Base Forecast as set forth in Section Article 4 and Section 4.8 and (iii) SpinCo's obligations with respect to monthly shortfalls pursuant to Section 4.5, in each case, solely to the extent of such Product SKUs affected by such Major Supply Failure during the occurrence of such Major Supply Failure and for ninety (90) days after Parent's notice pursuant to Section 6.4(d) that such Major Supply Failure has been remedied.

(d) Resolution and Resumption of Supply.

(i) Parent will notify SpinCo in writing when the underlying issue causing the Major Supply Failure is remedied and Parent is able to recommence its manufacture and supply of the Product SKUs affected by such Major Supply Failure.

(ii) Effective as of the ninetieth (90th) day following such notice from Parent, SpinCo will be subject to the Purchase Commitments described in Section 2.2(a)(ii) (or Termination Purchase Commitments, as applicable) with respect to such affected Product SKUs, subject to Section 6.4(d)(iii).

(iii) Within thirty (30) days after Parent's notice that the underlying issue is remedied, SpinCo shall submit to Parent an updated Rolling Forecast for the period starting on the ninetieth (90th) day following such notice from Parent (the "Updated Forecast"), *provided* that such Updated Forecast shall include the period starting on such day and ending twenty-four (24) months thereafter. Such Updated Forecast shall be consistent with the Purchase Commitment in Section 2.2(a)(ii) (or Termination Purchase Commitments, as applicable) and Allowable Purchase Cap in the Fiscal Year during which the applicable Major Supply Failure occurred, in each case reduced *pro rata* to account for the portion of the applicable Fiscal Year (or Termination Year, as applicable) during which Purchase Commitments (or Termination Purchase Commitments, as applicable) were not in effect. If such Updated Forecast is consistent with the Yearly Base Forecast for such Fiscal Year for the applicable Months remaining in such Fiscal Year, then there will be no change to the then-current price list set forth on Exhibit D and the Yearly Base Forecast will stay in place and be unmodified going forward. If such Updated Forecast is not consistent with the Yearly Base Forecast for such Fiscal Year for the applicable Months remaining in such Fiscal Year (or if the applicable Yearly Base Forecast did not include the applicable Product SKU(s) because the Major Supply Failure commenced prior to submission of the Yearly Base Forecast), then the Yearly Base Forecast will be deemed to be modified as set forth in such Updated Forecast, and Parent shall thereafter update the price list set forth on Exhibit D to reflect any changes to the pricing for each Product SKU based on such Updated Forecast and the Accounting Principles, and shall submit such updated price list to SpinCo no later than the sixtieth (60th) day following such notice from Parent. Such updated price list shall be deemed to be attached to this Agreement as Exhibit D, and shall supersede and replace the prior version of Exhibit D, effective as of the ninetieth (90th) day following such notice from Parent. SpinCo may, within thirty (30) days of receipt of the updated price list from Parent, dispute the application of Accounting Principles by Parent in calculating the prices set forth on such price list by notice to Parent in which case the dispute resolution procedure set forth in Section 3.1(b) shall apply. During the pendency of the dispute resolution procedure, the Product Price shall be the higher of (i) the Product Price prior to the Major Supply Failure and (ii) SpinCo's determination of the Product Price in its application of the Accounting Principles and, following resolution of the disputed prices, Parent will apply a credit to future invoices issued to SpinCo under this Agreement if the Product Price is determined to be lower and Parent will invoice SpinCo for any underpaid amount if the Product Price is determined to be higher, in each case when compared to the Product Price during the dispute. For clarity, Yearly Base Forecasts will continue to be submitted by SpinCo during the 24-month period covered by the Updated Forecast and such Yearly Base Forecast must be no less, on a month-by-month and SKU-by-SKU basis, then the relevant portion of the Updated Forecast.

(iv) During the twenty-four (24)-month period covered by the Updated Forecast, the Allowable Purchase Cap will remain at the level applicable prior to occurrence of the Major Supply Failure. Following such twenty-four (24)-month period for the remainder of the applicable Fiscal Year, the Allowable Purchase Cap for such remainder of the applicable Fiscal Year will be (a) the Maximum Allowable Purchase Cap pro-rated for the applicable partial Fiscal Year if (i) the Allowable Purchase Cap in the Fiscal Year in which the Major Supply Failure occurred was the Maximum Allowable Purchase Cap and (ii) the Yearly Base Forecast for the remainder of the applicable Fiscal Year is not more than or equal to [* * *] billion units less than such Maximum Allowable Purchase Cap (if such Yearly Base Forecast is proportionally adjusted for a 12-month period), (b) in all other instances, the lower of (i) the Allowable Purchase Cap for the

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Fiscal Year during which the Major Supply Failure occurred and (ii) 110% of the then-current Yearly Base Forecast Amount pro-rated for the applicable partial Fiscal Year. The Allowable Purchase Cap for all subsequent Fiscal Years shall be as set forth in Section 4.6. Also, following such twenty-four (24)-month period covered by an Updated Forecast that modified the Yearly Base Forecast under Section 6.4(d)(iii), the Purchase Commitment for the remainder of the applicable Fiscal Year will be a pro-rated amount of the Purchase Commitment for such Fiscal Year (if no Updated Forecast was in place during such Fiscal Year).

(e) SpinCo Remedies. Without limiting any other remedy under this Agreement or applicable Laws, in no event shall SpinCo have the right to terminate this Agreement under Section 13.4 as a result of any Supply Failure, *except* that SpinCo may terminate this Agreement under Section 13.4, on a Product SKU-by-Product SKU basis with respect to the Product SKU to which a Major Supply Failure relates, if a Major Supply Failure Termination Event has occurred with respect to such Product SKU. In addition, notwithstanding anything to the contrary under this Agreement, the Parties agree and acknowledge that, for a Major Supply Failure that is not a Major Supply Failure Termination Event, (i) SpinCo's sole and exclusive remedy under this Agreement is to provide an Updated Forecast under this Section 6.4, and (ii) SpinCo's sole and exclusive remedy under the IP Matters Agreement is a waiver of the upfront and incremental royalty fees, as applicable, otherwise due to Parent on cannula sourced from a Third Party during such Major Supply Failure; *provided* that such waiver is applicable for a maximum of two (2) years from the date of the commencement of such Major Supply Failure (it being understood that if Third Party-sourced cannula are being used with Manufacturing Line IP following such two (2) year waiver, then the upfront will be due and royalty fees will be due on future sales, as further described in the IP Matters Agreement).

ARTICLE 7
PRODUCT WARRANTY

7.1 Limited Product Warranty. Parent warrants to SpinCo that, at the time of delivery of any Product EXW as set forth in Section 5.1: (a) Parent will have title to such Product, free and clear of all liens and encumbrances; (b) such Product will meet the Specifications for the applicable Product SKU in all material respects; and (c) such Product will have been manufactured, handled, stored and transported in all material respects in accordance with applicable Laws.

7.2 Warranty Claims. Claims for any failure of a Product to meet the warranties set forth in Section 7.1 (such failure, a "Nonconformance"), which Nonconformance is reasonably capable of being detected by visual inspection, shall be made by SpinCo in writing within sixty (60) days following delivery of the applicable Product EXW as set forth in Section 5.1. Claims for Nonconformance that cannot reasonably be detected through visual inspection ("Latent Nonconformance"), shall be made by SpinCo in writing to Parent as soon as practicable, but in no event later than fifteen (15) days after such Latent Nonconformance is detected. Upon Parent's receipt of such a claim, Parent will work in good faith with SpinCo to resolve the issue. If the Parties have mutually agreed that there is a Nonconformance or Latent Nonconformance, then, in accordance with Parent's request, the affected Product shall either be returned to Parent or destroyed at Parent's reasonable expense. If no claim is made by SpinCo within the timeframes set forth in this Section 7.2, the Product shall be deemed accepted by SpinCo notwithstanding any Nonconformance. SpinCo shall have the right, but not an obligation, to perform any confirmatory testing of Products released for delivery to SpinCo as SpinCo deems appropriate.

7.3 Disputes. In the event the Parties disagree as to whether a Product is in Nonconformance or Latent Nonconformance, the Parties shall discuss in good faith in order to determine, by mutual agreement, whether such Product is in Nonconformance or Latent Nonconformance. If such Product is not in Nonconformance or Latent Nonconformance, SpinCo shall purchase the Product at the Product Price, irrespective of whether Parent has already replaced same (in which case SpinCo shall pay the Product Price for both the original Product and the replacement Product).

7.4 Sole Remedy. If any Product for which SpinCo made a warranty claim in accordance with Section 7.2 is in Nonconformance or Latent Nonconformance, Parent shall, at SpinCo's option, promptly replace the Product at no additional cost to SpinCo, credit SpinCo's account in an amount equal to the Product Price of the rejected Product, or refund that sum to SpinCo within sixty (60) days of SpinCo's request. The remedy set forth in this Section 7.4 shall be SpinCo's sole remedy with respect to any Nonconformance or Latent Nonconformance, except (a) as expressly set forth in Section 11.1 with respect to third-party Claims and (b) as expressly set forth in Section 8.7 with respect to out-of-pocket costs incurred in connection with recalls of SpinCo Products arising from a Nonconformance.

7.5 Warranty Exceptions. The warranties set forth in Section 7.1 shall not apply to: (a) any Product that, following delivery EXW as set forth in Section 5.1, is misused, neglected, improperly stored or handled, altered, abused or used for any purpose other than the one for which it was manufactured (including any Non-Conforming Use) or other conditions beyond the control of Parent, its Affiliates or their respective agents; or (b) any Product that, following delivery EXW as set forth in Section 5.1, suffers any damages or defects caused by unauthorized repair or use of parts or components not provided by Parent or its Affiliates under this Agreement for use in connection with the Product.

7.6 Delivery of Non-Conforming Product. For purposes of determining whether a Supply Failure has occurred, any delivery of Product (a) that has been rejected by SpinCo in accordance with Section 7.2, (b) that is deemed to be in Nonconformance or Latent Nonconformance under Section 7.3 and (c) for which Parent has not delivered replacement Product as set forth in Section 7.4 within the sixty (60)-day period set forth in Section 7.4, shall be deemed to be a failure to deliver such Product, for purpose of the definitions of "Supply Failure" and "Major Supply Failure," as applicable, to the extent of such Nonconformance or Latent Nonconformance.

ARTICLE 8
REGULATORY PROVISIONS

8.1 Quality. Parent shall maintain ongoing quality assurance and testing procedures in accordance with, and sufficient to comply with, the Specifications. Upon either Party's request following the Effective Date, the Parties will enter into good faith negotiations on commercially reasonable terms of a quality agreement, such quality agreement to enumerate each Party's responsibilities related to Product quality control and quality assurance, with a goal of entering into such quality agreement within ninety (90) days of the initial request by a Party.

8.2 Regulatory Responsibility. SpinCo shall be solely responsible for diligently developing and generating appropriate data for regulatory filings to seek approval to market and sell SpinCo Products and for maintaining all such approvals.

8.3 Audit of Facility and Records. SpinCo may, at its sole expense, send designated SpinCo employees to Parent's manufacturing facility upon reasonable notice, during normal business hours and for a reasonable duration, to audit and inspect the facilities in which the Products are manufactured, as is reasonably necessary to monitor Parent's compliance with this Agreement, and Parent will allow such SpinCo employees reasonable access to all manufacturing records for the Products as is reasonably necessary for such purposes; *provided* that SpinCo shall advise Parent in writing at least thirty (30) days in advance of the names of SpinCo's employees and the meeting agenda, and shall provide such representatives with proper identification. No such audit involving SpinCo shall be permitted unless and until the Visit CDA shall have been executed by SpinCo and delivered to Parent. In no event will SpinCo have the right to access any portion of a facility where Parent manufactures cannula that are not Products or that are not for supply to SpinCo, or conducts any activities that are proprietary in nature (even if such activities relate to the Products or the manufacturing process therefor).

8.4 Government Inspections. It is understood that foreign or domestic government regulatory authorities may send designated employees of such foreign or domestic government regulatory authorities to Parent's manufacturing facility to inspect the facilities in which the Product is manufactured to the extent reasonably necessary in connection with SpinCo's obtaining and maintaining regulatory approvals for SpinCo Products containing Product, and, upon SpinCo's reasonable prior notice to Parent, Parent will allow such foreign or domestic government regulatory authorities reasonable access to all manufacturing records for the Products to the extent reasonably necessary for such purposes, subject to customary obligations of confidentiality.

8.5 Manufacturing Process and Product Changes. Parent shall provide SpinCo with notice of any changes to the manufacturing process for any Product SKU (which changes may constitute, to the extent provided therein, a change in Materials used in the manufacture of the Product, changes to manufacturing sites, etc.), in each case, as would typically be provided in accordance with Parent's usual and customary procedure regarding customer notification of a manufacturing process change as then in effect, and Parent may implement such changes; *provided* that Parent may not implement any such change without SpinCo's consent (not to be unreasonably withheld, conditioned or delayed) if such change would be reasonably likely to require an amendment to any regulatory filing for a SpinCo Product or require the collection of additional clinical data for a SpinCo Product, in either case, unless such change is required by applicable Laws, in which case Parent will provide SpinCo with reasonable advance notice thereof. Parent may not make any changes to the Specifications for any Product SKU without SpinCo's consent (not to be unreasonably withheld, conditioned or delayed), unless such change is required by applicable Laws, in which case Parent will provide SpinCo with reasonable advance notice thereof.

8.6 Exclusion, Debarment or Suspension. Each Party represents and warrants that it and any person or entity employed or engaged by it, including its employees, contractors, consultants or agents who will provide Materials or Product in connection with this Agreement (for purposes of this Section 8.6, "Personnel") are not currently: (a) excluded, debarred, suspended or otherwise ineligible to participate in federal health care programs as defined in 42 U.S.C. § 1320a–7b or in

federal procurement or non-procurement activities as defined in Executive Order 12689 ("Ineligible"); (b) debarred pursuant to the Generic Drug Enforcement Act of 1992, 21 U.S.C. § 335(a), as amended, or any similar state law or regulation ("Debarred"); (c) excluded by the Office of Inspector General pursuant to 42 U.S.C. § 1320a-7, *et seq.* or any state agency from participation in any federal or state health care program as defined in 42 U.S.C. § 1320a-7 and 42 U.S.C. § 1320a-7b ("Excluded"); and/or (d) otherwise disqualified or restricted by the FDA pursuant to 21 C.F.R. § 312.70 or any other regulatory authority ("Disqualified"). Each Party represents and certifies that it will not utilize any Ineligible, Debarred, Excluded or Disqualified Personnel to provide any Materials or Product hereunder. During the Term of this Agreement, if either Party or any Personnel becomes Ineligible, Debarred, Excluded, or otherwise Disqualified, such Party (or the Party whose Personnel becomes Ineligible, Debarred, Excluded, or otherwise Disqualified) shall promptly cease using any such Personnel in connection with this Agreement and will notify the other Party in writing.

8.7 Recall. SpinCo will have the sole discretion to effect and control any recall, withdrawal, or field correction (each, a "Field Action") with respect to any SpinCo Product sold on or after the Effective Date. In connection with a Field Action, Parent will reasonably cooperate with responding to SpinCo's requests for information or other assistance, and in otherwise effecting such Field Action, to the extent relating to any Product. To the extent reasonably possible, SpinCo will consult with Parent before issuing any press release or otherwise making any public statement or making any other public (or non-confidential) disclosure (whether or not in response to an inquiry) regarding any Field Action that directly or indirectly references or implicates Parent. SpinCo will be responsible for communicating with any applicable governmental authorities in connection with a Field Action. SpinCo shall bear all costs and expenses incurred by it and by Parent in connection with any such Field Action (including with respect to any Field Action caused by any supplier of Raw Materials); *provided, however*, that if a Field Action results specifically from a Nonconformance (including any Latent Nonconformance), then (a) SpinCo may exercise its rights set forth in Section 7.4 with respect to such Nonconformance (including any Latent Nonconformance), and (b) Parent shall pay the reasonable out-of-pocket costs incurred by SpinCo in connection with SpinCo's response to such Field Action, but in no event to exceed [* * *] per twelve (12)-month period. Notwithstanding anything to the contrary in this Agreement, except as expressly set forth in Section 11.1 with respect to third-party Claims, the foregoing shall be SpinCo's sole and exclusive remedy with respect to a Field Action.

ARTICLE 9
CONFIDENTIALITY

9.1 Confidential Information. "Confidential Information" shall mean any information relating to the business, technology, products, processes, customers or suppliers of a Party that is disclosed by or on behalf of such Party (the "Disclosing Party") to the other Party (the "Receiving Party") in accordance with this Agreement, and that is marked as confidential, proprietary, or other similar marking or identification, or is of a type which would reasonably be expected to be confidential or proprietary by persons in the industry. For clarity, any trade secret of a Party or its Affiliates is such Party's Confidential Information under this Agreement. Confidential Information may be written, documentary, recorded, or otherwise fixed in a tangible medium, electronically communicated, or orally or visually communicated, furnished, provided, or disclosed by a Disclosing Party, or acquired by a Receiving Party directly or indirectly from the Disclosing Party.

[* * *] = [CONFIDENTIAL PORTION HAS BEEN OMITTED BECAUSE IT (I) IS NOT MATERIAL AND (II) WOULD BE COMPETITIVELY HARMFUL IF PUBLICLY DISCLOSED.

The Parties acknowledge that Confidential Information includes terms and conditions of this Agreement (with each Party deemed to be the Receiving Party with respect thereto), and any communications concerning this Agreement, including forecasts and orders of Products. Any Restricted Confidential Information is the Confidential Information of Parent.

9.2 Non-Disclosure. The Receiving Party will keep all Confidential Information of the Disclosing Party strictly confidential and not disclose any Confidential Information to any Person except as expressly set forth in this Agreement. The Receiving Party may disclose the Confidential Information only to its Representatives who: (i) reasonably need to know the Confidential Information for purposes of performing under this Agreement, (ii) are obligated (by binding agreement or professional obligation) not to disclose the Confidential Information, and (iii) understand the confidential nature of the Confidential Information. The Receiving Party agrees that it shall use commercially reasonable methods, at least as stringent as the methods it uses to protect its own confidential information of like kind, to maintain and cause its Representatives to maintain the confidentiality of the Confidential Information. All Restricted Confidential Information will also be subject to the restrictions set forth in Section 5.3 and, notwithstanding anything to the contrary in this Agreement, may not be disclosed by SpinCo to any third party without Parent's express written consent or to any employee of SpinCo that does not have a need to access or a need to know such Restricted Confidential Information in order to carry out obligations or exercise express rights of SpinCo under this Agreement. In addition, all employees of SpinCo that are permitted access to, or to whom disclosure is made of, Restricted Confidential Information must, prior to and as of such access or disclosure, have in effect valid, enforceable agreements with SpinCo with confidentiality and non-use provisions at least as strict as those under this Agreement.

9.3 Protection of Confidential Information Legends. The Receiving Party may not modify or delete any intellectual property or proprietary rights legend appearing in the Disclosing Party's Confidential Information.

9.4 Confidentiality Exceptions. Subject to Section 13.7(a), the Receiving Party's obligations of confidentiality with respect to Confidential Information shall not apply to any information that:

(a) is or becomes publicly known at or after the time of disclosure by a Disclosing Party, through no wrongful act of the Receiving Party, including disclosure by the Receiving Party or any of its Affiliates or any of their respective Representatives in violation of this Agreement; or

(b) is rightfully received by the Receiving Party from a third party, which third party is not itself bound by a confidentiality obligation or other contractual, legal or fiduciary obligation of confidentiality with respect to such Confidential Information; or

(c) is independently developed by the Receiving Party independent of any Confidential Information of the other Party or its Affiliates, such independent development being performed solely by persons not having access whatsoever to the other Party's Confidential Information, as evidenced by contemporaneous written evidence of same.

9.5 Disclosure to Government. If the Receiving Party is required by a court or judicial or governmental authority of competent jurisdiction to disclose Confidential Information, where allowable by law, the Receiving Party shall provide prompt written notice to the Disclosing Party of such required disclosure so as to enable the Disclosing Party to resist any such required disclosure, to obtain suitable protection regarding such required disclosure (including a protective order), or otherwise take steps to protect the confidentiality of the Confidential Information, and shall cooperate with the Disclosing Party in connection therewith. In the event that the Disclosing Party fails to receive suitable protection (including a protective order) in a timely manner and the Receiving Party reasonably determines that it is required to disclose or provide such Confidential Information, then the Receiving Party may thereafter disclose or provide only that portion of the Confidential Information to the extent required by law, and the Receiving Party shall promptly provide the Disclosing Party with a copy of the Confidential Information so disclosed, in the same form and format so disclosed, together with a list of all persons to whom such Confidential Information was disclosed, in each case to the extent legally permitted.

9.6 Certain Public Disclosures. If a Party determines in good faith that it is required by applicable Law to publicly file this Agreement or otherwise disclose the terms of this Agreement with a governmental authority, including public filings pursuant to securities laws or the rules of a stock exchange on which the securities of the Disclosing Party are listed (or to which an application for listing has been submitted), such Disclosing Party shall provide a proposed redacted form of this Agreement or a copy of any other such proposed disclosure, as applicable, to the other Party with a reasonable amount of time prior to filing or disclosure for the other Party to review and approve such redacted form or disclosure (which approval shall not be unreasonably conditioned, withheld or delayed). The Party making such filing or disclosure shall submit this Agreement in a manner consistent with the agreed redaction and shall use commercially reasonable efforts to seek confidential treatment for the redacted terms, to the extent such confidential treatment is applicable and reasonably available consistent with applicable Law.

9.7 Return of Confidential Information. All Confidential Information received or otherwise acquired by the Receiving Party from the Disclosing Party pursuant to this Agreement shall be and remain the Disclosing Party's property. After a request by the Disclosing Party, the Receiving Party must within thirty (30) days return or destroy (and cause the return or destruction by its Affiliates and Representatives) all Confidential Information of the Disclosing Party, and promptly certify to such destruction in writing. The Receiving Party may retain one (1) copy of all such Confidential Information strictly for archival purposes, and to the extent that the Receiving Party's routine back-up procedures create copies of Confidential Information, subject to the confidentiality obligations under this Agreement.

9.8 No Obligation to Disclose. Nothing herein shall obligate either Party to disclose to the other Party any particular information.

9.9 No Licenses. Nothing herein contained shall be construed as expressly or impliedly granting any right or license whatsoever to the Receiving Party under any patent, patent application or other proprietary right now or hereafter owned or controlled by the Disclosing Party. Without limiting the foregoing, SpinCo acknowledges that Parent is not granting any right or license, express or implied, to SpinCo under this Agreement or otherwise in connection with the supply of Product as contemplated under this Agreement with respect to any intellectual property owned or controlled by Parent.

9.10 Injunctive Relief. If a Party actually breaches, threatens to breach, or would inevitably breach the terms of this Article 9, such Party acknowledges that the breach may cause the other Party irreparable harm for which a remedy at Law alone may be inadequate. In such a case, the aggrieved Party is entitled to apply for injunctive relief without any requirement to post a bond or other security or proof of damages.

9.11 Notification of Unauthorized Access. The Receiving Party shall (i) promptly notify the Disclosing Party upon its becoming aware of any unauthorized possession, use, or knowledge of any Confidential Information by any person, any attempt by any person to gain possession of Confidential Information without authorization, or any attempt to use or acquire knowledge of any Confidential Information without authorization (collectively, "Unauthorized Access") and (ii) cooperate with the Disclosing Party, and accept and implement the Disclosing Party's reasonable recommendations, in any investigation, litigation and prevention of reoccurrences of any Unauthorized Access.

9.12 No Limitations of Rights. For the avoidance of doubt, nothing in this Agreement is intended to modify, limit or restrict the rights and obligations of the Parties and their Affiliates, as applicable, under the Separation and Distribution Agreement or any of the other documents to be entered into as contemplated thereby.

ARTICLE 10
COVENANTS OF SPINCO

10.1 Compliance with Laws; Required Notices. SpinCo shall comply with all applicable Laws and orders of any governmental authority in connection with the performance of this Agreement and the manufacture, marketing, sale and distribution of SpinCo Products. Without limiting the foregoing, SpinCo shall give all notices required in connection therewith.

10.2 Safety Laws. Without limitation of Section 10.1, SpinCo hereby acknowledges and agrees that many jurisdictions, including the United States, have in effect laws, rules and/or regulations, including the Needlestick Prevention Act in the United States (the "Safety Laws") mandating or recommending the use of protection technologies in connection with drug delivery devices and containers (collectively, the "Safety Products"). SpinCo has been and will be solely responsible for making its own analysis of such Safety Products and compliance with such Safety Laws.

10.3 Product Testing and Validation. All Products supplied by Parent under this Agreement are supplied on the condition that it is the sole responsibility and duty of SpinCo to evaluate, test and validate Products, through stability studies and otherwise, to assure that the Products are compatible and appropriate for use with the applicable SpinCo Products, including SpinCo's processing and packaging methods. SpinCo is solely responsible for assuring the sterility of the SpinCo Product (including the Product) when ultimately sold or distributed by SpinCo.

10.4 Validating Processes. SpinCo also has been and will be solely responsible for designing and validating its processes relating to or affecting the Product and SpinCo Product, including all such processes relating to the filling, handling, storing, or packaging of Product or SpinCo Product by SpinCo and its contractors.

10.5 Non-Conforming Use. SpinCo shall not, and shall ensure that its Affiliates and third party manufacturers of SpinCo Products do not, engage in any Non-Conforming Use with respect to any Product. SpinCo shall be responsible for any breach by any such Affiliate or manufacturer of such restrictions. If, notwithstanding the foregoing, SpinCo or any of its Affiliates or third party manufacturers, or transferees of SpinCo Product from any of the foregoing, engages in a Non-Conforming Use, SpinCo shall, as between Parent and SpinCo, assume all risk and responsibility associated with such Non-Conforming Use.

10.6 Compliance with Export Laws and Regulations. The Products are subject to the laws and regulations of the United States, including the U.S. Export Administration Regulations (collectively, "U.S. Laws"), and accordingly:

(a) In conducting its activities under this Agreement, including directly or indirectly selling, reselling, diverting, leasing, disclosing, transferring, exporting or reexporting (collectively, "Transferring") any Products or SpinCo Products, as applicable, SpinCo agrees to comply fully with all applicable U.S. Laws as well as all applicable export control laws and regulations of any other foreign government (collectively, "Export Control Laws").

(b) SpinCo expressly agrees that it shall not directly or indirectly Transfer Products or SpinCo Products to any destination, entity or individual in violation of any Export Control Laws.

(c) SpinCo is responsible for obtaining any necessary export authorizations under the Export Control Laws with respect to the Transfer of Products or SpinCo Products.

(d) SpinCo attests that the Products and SpinCo Products will not be used directly or indirectly in the development, production or proliferation of weapons of mass destruction (nuclear, chemical, or biological) or missile delivery systems, and/or in terrorist activities. Further, SpinCo will comply with all applicable U.S. Laws, including Part 744 of the U.S. Export Administration Regulations, and other government laws and regulations restricting exports to Persons or countries engaging in any of the above activities. It is SpinCo's responsibility to ensure that any party to which it Transfers Products or SpinCo Products is not involved in any such activities.

(e) SpinCo agrees that it will comply with all conditions and destination control statements set forth on the invoice, bill of lading or other documents accompanying the shipment of Products and will notify its Representatives, agents and distributors, customers, and any other person to which it transfers Products or SpinCo Products of the restrictions set forth in this Section 10.6.

10.7 Customer Complaints. If SpinCo receives a complaint from a customer or user with respect to any SpinCo Product, which complaint appears to have a connection to a Product incorporated into such SpinCo Product, SpinCo will promptly provide notice thereof to Parent and cooperate with Parent to fully evaluate the complaint and its related circumstances. The Parties shall cooperate reasonably in responding thereto.

ARTICLE 11
INDEMNIFICATION

11.1 SpinCo's Indemnification. Parent shall indemnify, defend and hold harmless the SpinCo Indemnitees from and against any and all Third-Party Claims to the extent arising out of or relating to: (i) any breach of this Agreement by Parent or its Affiliates or Representatives; (ii) any actual or alleged infringement or violation of any patent, trade secret, or other intellectual property or proprietary right of any third party as a result of Parent's manufacturing process with respect to any Product, except to the extent that such infringement or violation arises from Parent's use of information, technology or instructions provided by a SpinCo Indemnitee; or (iii) any bodily injury or death resulting from the Nonconformance (including any Latent Nonconformance) of any Product, except, in each case ((i) through (iii)), to the extent that SpinCo is obligated to indemnify Parent for such Claims pursuant to Section 11.2.

11.2 Parent's Indemnification. SpinCo shall indemnify, defend and hold harmless the Parent Indemnitees from and against any and all third-party Claims to the extent arising out of or relating to: (i) any breach of this Agreement by SpinCo or its Affiliates or Representatives; (ii) any Non-Conforming Use; (iii) the sale, distribution, supply, use or operation of any SpinCo Product, including any claims resulting from (a) filling, storing, packaging, testing, using or selling any SpinCo Product or relating to the adequacy of the labeling, warnings and instructions with respect to any SpinCo Product, or (b) any actual or alleged infringement or violation of any patent, trade secret, or other intellectual property or proprietary right of any third party as a result of the development or manufacture of a SpinCo Product; or (iv) any needlestick injury or similar damage sustained or alleged by any Person involved in the handling, shipping, manufacture, assembly, sale, distribution, supply, use or operation of any Product (on or after delivery of such Product EXW as set forth in Section 5.1) or any SpinCo Product and/or any failure or alleged failure of the Product, any SpinCo Product or the assembly, selling, distribution or use of either of the foregoing to comply with any Safety Law then in effect, including any recall or removal of any Product, any SpinCo Product or any component thereof ordered as a result of any such alleged failure to comply, except, in each case ((i) through (iv)), to the extent that Parent is obligated to indemnify SpinCo for such Claims pursuant to Section 11.1.

11.3 Indemnification Procedures. Upon the filing of any such Claim or suit, the Indemnitee shall promptly notify the Indemnifying Party thereof, shall give full information and reasonable assistance in the defense or settlement of such Claim or suit and shall permit such Indemnifying Party, at its cost, to control the defense of such Claim or suit; *provided, however*, that the Indemnitee may, at its own expense, retain such additional attorneys as it may deem necessary; and *provided*, *further*, that any delay in providing such notice shall not relieve the Indemnifying Party of any of its obligations under this Article 11 except to the extent the Indemnifying Party is materially prejudiced by such delay. The Indemnifying Party and its attorneys shall permit the Indemnitee's attorneys to reasonably observe and/or participate in the defense of such Claims or suits. The Indemnifying Party shall have the right, after consultation with the Indemnitee, to resolve and settle any such Claims or suits, *provided* that, in no event may the Indemnifying Party compromise or settle any such Claim in a manner that admits fault or negligence on the part of the Indemnitee, does not contain an applicable release of Claims, or includes injunctive relief or any damages other than monetary damages, in each case, without the prior written consent of the Indemnitee. The Indemnifying Party shall not be responsible for any settlement or other disposition or agreement reached with respect to any such Claim or suit unless the Indemnifying Party shall have given its prior written consent with respect to such settlement or other disposition or agreement.

11.4 Third-Party Claims Only. For the avoidance of doubt, the Parties acknowledge and agree that the indemnity provisions under this Article 11 apply solely to third-party claims, judgments, damages, losses, liabilities, suits, costs, and expenses (including the reasonable attorneys' fees and court costs of such third party) and shall not apply to any direct claims that either Party may have against the other Party.

ARTICLE 12
REPRESENTATIONS AND WARRANTIES; LIMITATION OF LIABILITY

12.1 General Representations and Warranties. Each Party hereby represents and warrants to the other Party as of the Effective Date as follows:

(a) Such Party (i) has the power and authority and the legal right to enter into this Agreement, and (ii) has taken all necessary action on its part required to authorize the execution and delivery of this Agreement and the performance of its obligations hereunder.

(b) Such Party (i) is duly formed and in good standing under the Laws of the jurisdiction of its formation and (ii) has the power and authority and the legal right to perform its obligations hereunder.

(c) This Agreement has been duly executed and delivered on behalf of such Party and constitutes a legal, valid and binding obligation of such Party and is enforceable against it in accordance with its terms, subject to the effects of bankruptcy, insolvency or other similar Laws of general application affecting the enforcement of creditor rights and judicial principles affecting the availability of specific performance and general principles of equity, whether enforceability is considered in a proceeding at law or in equity.

(d) The execution and delivery of this Agreement and the performance of such Party's obligations hereunder (i) do not and will not conflict with or violate any requirement of applicable Laws or any provision of the articles of incorporation, bylaws or any other constitutive document of such Party and (ii) do not and will not conflict with, violate, or breach, or constitute a default or require any consent under, any contract or order by which such Party is bound, except, in the case of subsection (ii) of this section (d), for such conflicts, violations, breaches and defaults, and such consents the failure of which to obtain, would not materially and adversely affect the ability of such Party to perform its obligations under this Agreement.

12.2 Covenant. Each Party shall (i) comply in all material respects with all applicable Laws related to such Party's activities to be performed under this Agreement and (ii) obtain and maintain all necessary consents of all governmental authorities required to be obtained by such Party in connection with the performance of its obligations hereunder.

12.3 DISCLAIMER. THE REPRESENTATIONS AND WARRANTIES SET FORTH IN THIS ARTICLE 12, TOGETHER WITH THE LIMITED PRODUCT WARRANTY SET FORTH IN SECTION 7.1, SHALL BE IN LIEU OF ALL OTHER WARRANTIES, AND EACH PARTY HEREBY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. PARENT EXPRESSLY DISCLAIMS ANY REPRESENTATIONS AND WARRANTIES REGARDING THE PRODUCTS EXCEPT FOR THE LIMITED PRODUCT WARRANTY SET FORTH IN SECTION 7.1. EACH OF SPINCO AND PARENT HEREBY ACCEPTS SUCH DISCLAIMERS.

12.4 EXCEPT WITH RESPECT TO A BREACH OF EITHER PARTY WITH RESPECT TO ITS OBLIGATIONS UNDER THIS AGREEMENT REGARDING CONFIDENTIAL INFORMATION (INCLUDING, IN THE CASE OF SPINCO, BREACH OF ITS OBLIGATIONS REGARDING RESTRICTED CONFIDENTIAL INFORMATION), THIRD PARTY CLAIMS UNDER SECTION 11.1 OR 11.2, NEITHER PARTY SHALL BE LIABLE UNDER THIS AGREEMENT FOR ANY SPECIAL, INDIRECT, PUNITIVE, CONSEQUENTIAL OR INCIDENTAL DAMAGES, INCLUDING LOSS OF ACTUAL OR ANTICIPATED PROFITS OR REVENUES, LOSS BY REASON OF SHUTDOWN, LOSS OF USE, LOSS OF ACCRUING INTEREST, NONOPERATION OR INCREASED EXPENSE OF MANUFACTURING OR OPERATION, DELAY, OR ANY DAMAGES ARISING IN CONNECTION WITH THE RECONSTRUCTION OF OR LOSS OF OTHER PROPERTY OR EQUIPMENT OR ANY LOSS OF REPUTATION OR PUBLIC IMAGE. EXCEPT AS EXPRESSLY SET FORTH IN SECTION 11.1 OR TO THE EXTENT CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF PARENT OR ANY OF ITS AFFILIATES, PARENT SHALL NOT BE LIABLE FOR ANY DAMAGES ARISING FROM (a) ANY NON-CONFORMING USE OF A PRODUCT, (b) CLAIMS OF THIRD PARTIES FOR INJURY, DEATH OR PROPERTY DAMAGE SUFFERED AS A RESULT OF THE USE OF ANY PRODUCT OR SPINCO PRODUCT, OR (c) FAILURE TO WARN, OR TO ADEQUATELY WARN, AGAINST THE DANGERS OF, OR FAILURE TO INSTRUCT, OR TO ADEQUATELY INSTRUCT, ABOUT THE SAFE AND PROPER USE OF, ANY SPINCO PRODUCT; PROVIDED THAT, FOR CLARITY, IN NO EVENT SHALL PARENT HAVE ANY LIABILITY FOR A SPINCO PRODUCT THAT DOES NOT CONTAIN A PRODUCT.

12.5 NOTWITHSTANDING ANYTHING ELSE TO THE CONTRARY SET FORTH IN THIS AGREEMENT, THE MAXIMUM LIABILITY OF PARENT IN RESPECT OF THIS AGREEMENT FOR ALL CLAIMS, WHETHER IN CONNECTION WITH A WARRANTY CLAIM, A RECALL OR REMOVAL (SUBJECT TO SECTION 8.7), AN INDEMNITY CLAIM UNDER ARTICLE 11 OR OTHERWISE, A COMBINATION THEREOF, OR OTHERWISE AND WHETHER ARISING UNDER CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, PRODUCT LIABILITY, A COMBINATION THEREOF, OR ANY OTHER THEORY OF LIABILITY OR INDEMNIFICATION, ARISING FROM AN ACT OR OMISSION IN ANY FISCAL YEAR, SHALL NOT EXCEED, IN THE AGGREGATE, AN AMOUNT EQUAL TO [* * *] PERCENT ([* * *]%) OF THE TOTAL REVENUES ACTUALLY RECEIVED BY PARENT FROM SPINCO UNDER THIS AGREEMENT IN THE IMMEDIATELY PRIOR FISCAL YEAR (THE "LIABILITY CAP"); *PROVIDED*, *HOWEVER*, THAT THE LIABILITY CAP FOR THE FIRST FISCAL YEAR OF THE TERM SHALL BE AN AMOUNT EQUAL TO [* * *] PERCENT ([* * *]%) OF THE TOTAL REVENUES ANTICIPATED TO BE RECEIVED BY PARENT FROM SPINCO UNDER THIS AGREEMENT IN THE YEAR 1 BASED ON THE 2022 BASE FORECAST; AND *PROVIDED*, *FURTHER*, THAT THE FOREGOING LIMITATION SHALL NOT APPLY TO ANY CLAIMS RESULTING FROM PARENT'S INTENTIONAL FAILURE

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TO SUPPLY PRODUCTS (*PROVIDED* THAT PARENT IS REASONABLY ABLE TO SO SUPPLY), GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. EACH PARTY FURTHER ACKNOWLEDGES THAT ANY RIGHT OF RECOVERY BY SUCH PARTY'S INSURER IS HEREBY WAIVED AND SUCH PARTY'S INSURER SHALL NOT HAVE ANY OTHER RECOURSE AGAINST THE OTHER PARTY FOR DAMAGES PAID UNDER SUCH FIRST PARTY'S INSURANCE POLICIES FOR LIABILITIES ARISING IN CONNECTION WITH THIS AGREEMENT. NOTWITHSTANDING THE FOREGOING, THIS SECTION 12.5 SHALL NOT APPLY WITH RESPECT TO DIRECT CLAIMS FOR NONCONFORMANCE (INCLUDING LATENT NONCONFORMANCE), THE SOLE AND EXCLUSIVE REMEDY FOR WHICH IS SET FORTH IN SECTION 7.4, OR CLAIMS FOR OUT-OF-POCKET COSTS IN CONNECTION WITH A RECALL CAUSED BY NONCONFORMANCE (INCLUDING LATENT NONCONFORMANCE), THE SOLE AND EXCLUSIVE REMEDY FOR WHICH IS SET FORTH IN SECTION 8.7.

ARTICLE 13
TERM

13.1 Term. Subject to the terms and conditions herein, this Agreement shall commence on the Effective Date and shall continue in perpetuity unless and until terminated in accordance with the provisions of this Article 13 (the "Term").

13.2 Automatic Termination. This Agreement shall terminate automatically, immediately following a thirty-six (36) month wind-down period, if SpinCo submits a forecast pursuant to Section 4.1 for Year 6 on any Fiscal Year thereafter that fails to satisfy any of the applicable Purchase Commitments as set forth in Section 2.2(b)(ii), *provided* that no such automatic termination shall occur if, at the time of such failure, SpinCo is excused from compliance with such Purchase Commitment(s) based on a Major Supply Failure as set forth in Section 6.4.

13.3 Termination for Convenience.

(a) Parent may terminate this Agreement for any reason or no reason by providing at least thirty-six (36) months' written notice to SpinCo, with such termination to be effective no earlier than ten (10) years after the Effective Date.

(b) SpinCo may terminate this Agreement for any reason or no reason any time after the Effective Date by providing at least thirty-six (36) months' written notice to Parent, with such termination to be effective no earlier than five (5) years after the Effective Date.

13.4 Termination for Material Breach. Either Party may terminate this Agreement, upon written notice to the other Party if the other Party materially breaches this Agreement, unless the breaching Party cures such material breach within sixty (60) days of written notice thereof from the non-breaching Party to the breaching Party (which period shall be thirty (30) days in the case of a failure to pay).

13.5 Termination for Bankruptcy. Either Party may terminate this Agreement immediately upon written notice by one Party to the other, if the other Party makes an assignment for the benefit of creditors, has a receiver appointed for it or any of its assets, or files or has filed against it a petition under the Bankruptcy Code of 1978, as amended, 11 U.S.C. § 101 *et seq*., or under any state insolvency laws providing for the relief of debtors, and such petition is not dismissed within sixty (60) days of its filing.

13.6 Termination for Change of Control. In the event that SpinCo consummates a Change of Control, then Parent will have the right to terminate this Agreement in response to the consummation of the Change of Control by SpinCo, which right may be exercised by Parent in its sole discretion. Such termination right will be exercisable once the notice to Parent of the consummation of the Change of Control has been provided (which notice shall be provided promptly).

13.7 Effects of Termination.

(a) The confidentiality and non-use obligations of the Receiving Party with respect to the Disclosing Party's Confidential Information shall survive indefinitely, notwithstanding any termination of this Agreement, for so long as such information continues to satisfy the definition of Confidential Information under this Agreement; *provided* that each Party's confidentiality and non-use obligations under this Agreement with respect to trade secrets of the other Party or its Affiliates shall be perpetual for as long as such information derives independent economic value, actual or potential, from not being generally known to or readily ascertainable through proper means by the public and are the subject of efforts that are reasonable under the circumstances to maintain secrecy.

(b) Promptly following any termination of this Agreement (but no more than ninety (90) days following such termination), SpinCo will, at its sole cost, ship to Parent any and all Cartridges that are in SpinCo's or its Affiliates' or third party manufacturers' possession or control at such time.

13.8 Survival. Upon the effective date of any termination of this Agreement, this entire Agreement shall forthwith become void and all obligations of the Parties (and their respective officers, directors and equity holders) hereunder shall terminate, except that the rights and obligations specified in Article 1 (Definitions), Section 2.1 (Purchase and Sale of Product) (with respect to the last sentence), Section 2.3 (Alternative Suppliers), Section 3.5 (Capital Cost Recovery), Section 4.8 (Annual Reconciliation), Section 4.9 (Conflicts), Article 5 (Shipment and Delivery: Invoices) (with respect to Section 5.1 and 5.2, solely with respect to Product ordered prior to termination of this Agreement), Article 7 (Product Warranty) (with respect to Product ordered prior to termination of this Agreement), Section 8.3 (Audit of Facility and Records) (with respect to Product ordered prior to termination of this Agreement), Section 8.4 (Government Inspections) (with respect to Product ordered prior to termination of this Agreement), Section 8.7 (Recall), Article 9 (Confidentiality), Article 10 (Covenants of SpinCo), Article 11 (Indemnification), Article 12 (except for Section 12.1 (General Representations and Warranties)), Section 13.7 (Effects of Termination), Section 13.8 (Survival), Article 14 (Force Majeure) and Article 15 (Miscellaneous), and those rights and obligations that have accrued prior to termination or expiration, will survive such event; *provided*, *however*, that nothing herein shall relieve any Party from liability for any breach of this Agreement and *provided*, *further*, that no such termination or expiration shall relieve SpinCo of its obligation to purchase Products for which Purchase Orders have been confirmed by Parent.

ARTICLE 14
FORCE MAJEURE

14.1 Excused Delay. Notwithstanding anything to the contrary in this Agreement, any Force Majeure shall not be considered a breach of this Agreement, shall not give rise to a right of termination with respect to a Product SKU under Section 6.4(e) or 13.4, and the time required for performance shall be extended for a period equal to the period of such delay. Force Majeure shall include acts of God, acts of the public enemy, war, terrorism, insurrections, riots, injunctions, pandemics, epidemics, embargoes, fires, explosions, floods, tornadoes, violent wind damage, changes in applicable Law or government orders, or other unforeseeable causes beyond the reasonable control, and without the fault or negligence of, the Party so affected. The Party that is subject to a Force Majeure affecting this Agreement shall give prompt written notice to the other Party of such Force Majeure and shall take commercially reasonable steps to seek to mitigate the effects of such Force Majeure.

14.2 Notice and Allocation. In addition to and not in lieu of the terms and conditions above, if a Force Majeure causes a shortage of Raw Materials or a shortage of Product, Parent shall equitably allocate such Raw Materials or Product among all of Parent's requirements with respect to such Raw Materials or Products, based on SpinCo's usage and Parent's usage for the twelve (12)-month period prior to such Force Majeure.

ARTICLE 15
MISCELLANEOUS

15.1 Assignment. This Agreement is not assignable, delegable, sublicensable, or otherwise transferable by SpinCo in whole or in part, (including by any transaction that may be deemed to be direct or indirect transfer or assignment by operation of law), without the prior written consent of Parent, which consent may be provided in the sole discretion of Parent. Any such assignment, delegation, sublicense or transfer by SpinCo without Parent's prior written consent will be null, void, and invalid, and the purported assignee, delegee, sublicensee or transferee will not acquire any rights nor assume any duties under this Agreement. Notwithstanding the foregoing, in the event of an assignment by SpinCo with the written consent of Parent, this Agreement shall be binding upon and inure to the benefit of the permitted successors and assigns of SpinCo, provided that any such assignee expressly agrees in writing to be bound by the obligations of SpinCo in this Agreement. This Agreement is not assignable, delegable, sublicensable, or otherwise transferable by Parent to a Third Party in whole or in part; provided that Parent may assign this Agreement in connection with the sale of all of substantially all of Parent's assets to which this Agreement relates if such assignee expressly agrees in writing to be bound by the obligations of Parent in this Agreement.

15.2 Third-Party Rights. Nothing in this Agreement, express or implied, is intended to or shall confer on any third party, any rights, remedies, obligations or liabilities under or by reason of this Agreement or the transactions contemplated hereby.

15.3 Use of Affiliates. Notwithstanding the foregoing, Affiliates of SpinCo may submit Purchase Orders hereunder, and Affiliates or third-party contractors of Parent may perform all or part of the supply obligations of Parent hereunder without the prior written consent of the other Party. Each Party will require and cause any Affiliate performing obligations on its behalf under this Agreement to comply with the terms and conditions of this Agreement.

15.4 Fully Incorporated. This Agreement, the Separation and Distribution Agreement and the other Ancillary Agreements together with any Schedules and/or Exhibits attached hereto and thereto, contain the entire agreement between the Parties hereto with respect to the subject matter of this Agreement, and supersede all previous written or oral negotiations, commitments, transactions, or understandings with respect thereto, whether oral or written, express or implied.

15.5 Modifications. This Agreement may only be modified by a written instrument, executed by duly constituted officers of both Parties hereto.

15.6 Insurance. During the Term and for not less than two (2) years thereafter, each Party shall maintain commercial general liability insurance. This insurance shall include product liability and cover claims arising out of or relating to all activities and products contemplated under this Agreement. Such insurance shall provide a minimum limit of liability of not less than $5,000,000 per occurrence and $15,000,000 in the aggregate, *provided* that such insurance limits shall not limit either Party's legal liability hereunder.

15.7 Relationship. The relationship created by this Agreement shall be strictly that of independent contractors. Neither Party is hereby constituted an agent or legal representative of the other Party for any purpose whatsoever and is granted no right or authority hereunder to assume or create any obligation, express or implied, or to make any representation, warranties or guarantees, except as are expressly granted or made in this Agreement.

15.8 Notice. Any notice required or permitted to be given hereunder shall be sufficient if in writing and (a) delivered in person or by express delivery or courier service, (b) sent by e-mail without receipt of a delivery failure, or (c) deposited in the mail registered or certified first class, postage prepaid and return receipt requested; *provided* that any notice given pursuant to clause (b) is also confirmed by the means described in clause (a) or (c) to such address of the Party set forth below or to such other place or places as such Party from time to time may designate in writing in compliance with the terms hereof. Each notice shall be deemed given when so delivered personally, or sent by electronic transmission, or, if sent by express delivery or courier service one (1) business day after being sent, or if mailed, five (5) business days after the date of deposit in the mail. A notice of change of address shall be effective only when done in accordance with this Section 15.8.

if to Parent:

Becton, Dickinson and Company
1 Becton Drive
Franklin Lakes, New Jersey 07417
Attention: Joseph LaSala
Chief Counsel - Transactions/M&A
E-mail: joseph_lasala@bd.com

if to SpinCo at:

SpinCo
Embecta Corp.
300 Kimball Drive
Parsippany, New Jersey 07054
Attention: Jeff Mann
Senior Vice President, General Counsel,
Head of Corporate Development and Corporate Secretary
E-mail: jeff.mann@bd.com; jeff.mann@embecta.com

15.9 Waiver. A waiver by either Party or a breach of any of the terms of this Agreement by the other Party shall not be deemed a waiver of any subsequent breach of the terms of this Agreement.

15.10 Dispute Resolution. The Parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiations. Either Party may give the other Party written notice of any dispute hereunder not resolved in the normal course of business. Within thirty (30) days following such delivery of such notice, executives of both Parties shall discuss by telephone, video conference or meeting at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary, to exchange relevant information, and to attempt to resolve such dispute. If the matter has not been resolved within sixty (60) days following the disputing Party notice, or if the Parties fail to discuss or meet within the thirty (30)-day period, then either Party may pursue any other available remedies in connection therewith. Nothing herein shall prevent a Party from pursuing immediate equitable relief, if not pursuing that relief could lead to irreversible damage or bodily injury to a Party or third party.

15.11 Choice of Law. The rights and obligations of the Parties shall be governed by, and this Agreement shall be interpreted, construed and enforced in accordance with, the laws of the State of New York, excluding its conflict of laws rules to the extent such rules would apply the law of another jurisdiction.

15.12 Choice of Venue. Any judicial proceeding brought against any of the Parties to this Agreement or any dispute arising out of this Agreement or related hereto may be brought in the courts of the State of New York, or in the United States District Court for the Southern District of New York, and, by execution and delivery of this Agreement, each of the Parties to this Agreement accepts the exclusive jurisdiction of such courts, and irrevocably agrees to be bound by any judgment rendered thereby in connection with this Agreement. The foregoing consents to jurisdiction shall not constitute general consents to service of process in the State of New York for any purpose except as provided above and shall not be deemed to confer rights on any Person other than the Parties to this Agreement. Each of the Parties to this Agreement agree that service of any process, summons, notice or document by U.S. mail to such Party's address for notice hereunder shall be effective service of process for any action, suit or proceeding in New York with respect to any matters for which it has submitted to jurisdiction pursuant to this Section 15.12.

15.13 Waiver of Jury Trial. Each of the Parties hereto hereby irrevocably waives its right to a jury trial in connection with any action, proceeding or claim arising out of or relating to this Agreement or any transaction contemplated hereby.

15.14 Interpretation. Except as otherwise explicitly specified to the contrary, (a) references to a Section, Article, Exhibit or Schedule means a Section or Article of, or Schedule or Exhibit to this Agreement, unless another agreement is specified, (b) the word "including" (in its various forms) means "including without limitation," (c) references to a particular statute or regulation include all rules and regulations thereunder and any predecessor or successor statute, rules or regulation, in each case as amended or otherwise modified from time to time, (d) words in the

singular or plural form include the plural and singular form, respectively, (e) references to a particular Party include such Party's successors and assigns to the extent not prohibited by this Agreement, (f) "extent" in the phrase "to the extent" means the degree to which a subject or other thing extends, and such phrase does not mean simply "if," (g) the headings contained in this Agreement, in any Exhibit or Schedule hereto and in the table of contents to this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement, (h) the words "will" and "shall" shall be interpreted to have the same meaning, (i) references to "$" shall mean U.S. dollars, and (j) use of the word "or" shall be interpreted in the inclusive sense commonly attributed to the phrase "and/or." The Parties acknowledge that each Party has read and negotiated the language used in this Agreement. The Parties agree that, because all Parties participated in negotiating and drafting this Agreement, no rule of construction shall apply to this Agreement which construes ambiguous language in favor of or against any Party by reason of that Party's role in drafting this Agreement.

15.15 Headings. The headings and subheadings herein are inserted for convenience of reference and shall not affect the interpretation of this Agreement.

15.16 Counterparts. This Agreement may be executed in any number of counterparts, each of which once so executed and delivered shall be deemed an original, but all of which shall constitute but one and the same agreement.

15.17 Severability. If any provision of this Agreement is deemed or held to be illegal, invalid, unenforceable or contrary to any laws or regulations, all other provisions will continue in full force and effect, and the Parties, where possible, will substitute for such provision a valid and enforceable provision which conforms as nearly as possible with the original intent of the Parties, or such provision shall be limited or eliminated to the minimum extent necessary so that this Agreement shall otherwise remain in full force and effect and enforceable.

(Signatures on next page)

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date. Each person who signs this Agreement below represents that such person is fully authorized to sign the Agreement on behalf of the applicable Party.

BECTON, DICKINSON AND COMPANY

By: /s/ Christopher J. DelOrefice
Name: Christopher J. DelOrefice
Title: Executive Vice President and Chief Financial Officer

EMBECTA CORP.

By: /s/ Jacob Elguicze
Name: Jacob Elguicze
Title: Chief Financial Officer

[Signature Page to Cannula Supply Agreement]

Certain confidential information contained in this document, marked by brackets, has been omitted because it is both (i) not material and (ii) would be competitively harmful if publicly disclosed.

LEASE AGREEMENT

THIS LEASE AGREEMENT (this "**Lease**"), dated as of March 31, 2022 (the "**Commencement Date**"), is made by and between Becton Dickinson Infusion Therapy Systems Inc., a Delaware corporation ("**Landlord**") and wholly-owned subsidiary of Becton, Dickinson and Company ("**BD**"), having an address at 1 Becton Drive, Franklin Lakes, NJ 07417, and Embecta Corp., a Delaware corporation ("**Tenant**") having an address at 300 Kimball Drive, Parsippany, NJ 07054. For mutual consideration, Landlord and Tenant hereby enter into this Lease on the terms and conditions set forth herein.

1. Premises.

(a) As of the Commencement Date, Tenant is a corporation spun off from BD and Tenant occupies certain space within the building (the "**Building**") located on the real property having an address at [* * *] Holdrege, NE (the "**Property**"), which Property is depicted on the site plan set forth on Exhibit B. The space occupied by Tenant within the Building on the Commencement Date is shown on Exhibit A. Landlord and Tenant desire that certain alterations and improvements to space within the Building be made to achieve the separation of the operations of Tenant from the operations of Landlord ("**Separation Work**") and at the end of such Separation Work, the premises within the Building demised to Tenant under this Lease shall be as depicted on Exhibit B. On the Commencement Date, the premises demised to Tenant under this Lease shall be the space within the Building that is now currently occupied by Tenant, together with the non-exclusive right to use the driveways, parking areas and Common Areas (defined below) on the Property. In the performance of the Separation Work within the Building, Landlord shall take into consideration Tenant's use of and operations in the Premises and use all commercially reasonable efforts to minimize disruption to Tenant's operations. Tenant agrees to cooperate in good faith with Landlord in achieving the Separation Work. Landlord and Tenant shall designate in writing the name of their respective representatives for the purposes of communications regarding the Separation Work. For purposes hereof, the term "**Premises**" shall mean, as applicable, the initial space occupied by Tenant in the Building and the final space depicted on Exhibit B to be occupied by Tenant after completion of the Separation Work.

(b) Landlord and Tenant shall cooperate in good faith with each other to complete the Separation Work, including Landlord and Tenant engaging in regular cadence of meetings and Landlord ensuring Tenant is promptly apprised of any significant developments as soon as reasonably possible (collectively, the "**Separation Work Communications**"). In furtherance of the foregoing mutually cooperation, Landlord may make changes to the Separation Work that (i) do not materially impair Tenant's use of the Premises for the Permitted Purpose, (ii) do not materially alter the plans set forth on Exhibit B, including, but not limited to, customary "field" changes, (iii) are required by any governmental authority, and (iv) are required to address an unforeseen circumstance arising during construction (collectively, "**Landlord Permitted Changes**"). If Landlord desires to make any change to the Separation Work which does not constitute a Landlord Permitted Change, Landlord shall obtain Tenant's written consent to such change; provided that Tenant's consent to such change shall not be unreasonably withheld, conditioned or delayed. Tenant shall be deemed to have granted its consent to any such change if Tenant fails to deliver, within five (5) Business Days following receipt of Landlord's notice of the proposed change, a written notice to Landlord objecting in reasonable detail the specific elements of the proposed change that Tenant asserts (y) do not constitute a Landlord Permitted Change and (z) are objectionable and the reasons why, provided, however, if Tenant requests in writing within the initial five (5) Business Day period, Tenant may have an additional five (5) Business Days to provide Landlord such written response. As used in this Lease, the term "**Business Day**" shall mean any day other than a Saturday, Sunday, or federal holiday.

[* * *] = [CONFIDENTIAL PORTION HAS BEEN OMITTED BECAUSE IT (I) IS NOT MATERIAL AND (II) WOULD BE COMPETITIVELY HARMFUL IF PUBLICLY DISCLOSED.

(c) The Separation Work will be deemed "complete", or have reached "completion" for purposes of this Lease at such time the Separation Work is complete subject only to minor punch list items that do not interfere with Tenant's ability to operate the Premises for the Permitted Purpose. Upon the completion of the Separation Work, the Premises demised hereunder to Tenant are intended to contain 277,777 rentable square feet of space as shown on the site plan attached hereto as Exhibit B, together with the Rented Equipment (defined below). Upon the completion of the Separation Work, Landlord shall update Exhibit B if necessary and send same to Tenant. On or prior to the date of completion of the Separation Work, Tenant and Landlord (accompanied by their respective choice of agents) shall conduct a joint walk-through of the Premises to inspect the Premises and generate a punch list of all asserted defects or incomplete work items, if any, in the Separation Work (the "**Punch List**"). The Punch List shall not include, and Tenant shall be responsible for, any damage to the Separation Work caused by Tenant or Tenant's Agents. Landlord shall commence to correct or complete, as applicable, all items on the Punch List within thirty (30) days thereafter and shall diligently pursue the same to completion. Landlord shall warrant to Tenant that the Separation Work is free of defects for a period of one (1) year from the completion of such work.

(d) Landlord represents that it is the sole owner in fee simple of the Building, Landlord has the full right and authority to lease the Premises to Tenant and to otherwise enter into this Lease on the terms and conditions herein and no consent from Landlord's lender or any other party is required for Landlord to enter into this Lease. Tenant represents that Tenant has the full right and authority to lease the Premises from Landlord and otherwise to enter into this Lease on the terms and conditions herein. Tenant acknowledges that Tenant is in possession of the Premises during the Term (defined below) of this Lease in an "AS IS, WHERE IS" condition, and that no representations, warranties, or inducements, with respect to any condition of the Premises have been made by Landlord, or its designated representatives, to Tenant, or its designated representatives, except as expressly set forth in this Lease. Except for the Separation Work, no promises to alter or improve the Premises, or equip the Premises with personal property or fixtures, have been made to Tenant, or its designated representatives, by Landlord, or its designated representatives. Landlord and Tenant shall cooperate in good faith with each other to complete such work.

(e) Within eighteen (18) months of the Commencement Date, the parties expect that Landlord shall have completed the Separation Work, provided that, there shall be no reduction or abatement of Rent to or any other claim for damages by Tenant if the Separation Work is not completed in the expected timeframe.

(f) Tenant may use the Premises for manufacturing, warehouse, and general office uses, in each case, specifically related to the Permitted Purposes (as such term is defined under the Cannula Supply Agreement, dated [of even date herewith], by and between BD and Tenant), and for no other purpose. Tenant shall comply with the Building Rules and Regulations

set forth on Exhibit C herein, not conduct any illegal activity on the Premises, disturb other occupants of the Building in any material respect, or cause any insurance coverage on the Premises, the Building, or the Property to be eliminated. If Tenant causes Landlord's insurance premium on the Premises, the Building, or the Property to increase, Tenant shall pay the difference in premium costs as additional Rent.

(g) The resin handling system and silo (the "**Resin Handling System**") described on Exhibit D-1 and all furniture, fixtures, equipment or other items of personal property located on the Property and described on Exhibit D-2 ("**Rented Equipment**") is owned by Landlord and leased to Tenant at no additional cost. Except for the Rented Equipment, all furniture, equipment that is not a fixture, or other items of personal property located in the Premises shall be considered to be owned by Tenant ("**Tenant's Property**") and Section 8 shall govern whether such property shall be removed at the end of the Term.

2. Term. Subject to the other terms and conditions herein, the term of this Lease (the "**Term**") shall (i) begin on the Commencement Date and end on 11:59 p.m. Central Time on the last day of the month in which the tenth (10) year anniversary of the Commencement Date occurs (the "**Initial Term**"), *provided* that Tenant shall have a one-time right to extend the term of this Lease for an additional term, at Tenant's option, of exactly one (1), two (2), three (3), four (4) or five (5) years (the "**Renewal Term**"), exercisable by Tenant's providing written notice to Landlord no later than three (3) years prior to the end of the Initial Term indicating that Tenant is exercising this extension right and specifying the number (between one and five) of years that will be in the Renewal Term.

3. Rent.

(a) Commencing on the Commencement Date, Tenant shall pay to Landlord base rent ("**Base Rent**"), with annual [* * *] percent ([* * *] %) escalations over the Base Rent in the immediately preceding year, in monthly installments on the first day of each month, in advance, without notice, offset or demand, in the amounts and for the periods set forth below. Base Rent in any twelve (12) month period of the Renewal Term shall increase by [* * *] percent ([* * *] %) over the Base Rent in the immediately preceding twelve (12) month period.

Lease Period	Monthly Base Rent
Commencement Date through the 12th whole month thereafter	$ [* * *]
Months 13 — 24	$ [* * *]
Months 25 — 36	$ [* * *]
Months 37 — 48	$ [* * *]
Months 49 — 60	$ [* * *]
Months 61 — 72	$ [* * *]
Months 73 — 84	$ [* * *]
Months 85 — 96	$ [* * *]
Months 97 — 108	$ [* * *]
Months 109 — 120	$ [* * *]

[* * *] = [CONFIDENTIAL PORTION HAS BEEN OMITTED BECAUSE IT (I) IS NOT MATERIAL AND (II) WOULD BE COMPETITIVELY HARMFUL IF PUBLICLY DISCLOSED.

(b) In addition to Base Rent, from and after the Commencement Date (subject to adjustment as set forth in this Lease), Tenant shall pay to Landlord as additional Rent, in the same manner as Base Rent, Tenant's Proportionate Share (defined below) of the following charges:

(i) **Facilities Management Fee:** $[* * *] per month(Set forth in Section 4)

(ii) **Taxes:**(Set forth in Section 9) $[* * *] per month

(iii) **Insurance:**(Set forth in Section 10) $[* * *] per month

(iv) **Utilities:** $[* * *] per month

The following utilities shall be provided to the Premises: water (including chilled water), compressed air, central exhaust, heating/cooling HVAC, central vacuum, sewer, natural gas, and electricity (the "**Utilities**"). Tenant shall procure in its own name and pay for any additional utilities that Tenant may require. Notwithstanding anything to the contrary contained in this Lease, in no event shall Landlord be liable for any failure, cessation or interruption of utility services to the Premises so long as not caused by the gross negligence or intentional misconduct (acts or omissions) of Landlord or its agents. If Tenant experiences unrecoverable production losses at the Premises due to the actions or inactions of a third party facilities manager, Landlord shall use commercially reasonable efforts to seek payment from such third party facilities manager for Tenant's unrecoverable production losses if the third party facilities contract allows for such recovery. If and when Landlord receives a payment from a third party facilities manager for unrecoverable production losses due to the actions or inactions of such third party facilities manager, Landlord shall pass on to Tenant that portion of any such reimbursement directly attributable to Tenant's unrecoverable production losses at the Premises.

"**Tenant's Proportionate Share**" means the percentage obtained by dividing (x) the number of rentable square feet of space occupied by Tenant in the Building, by (y) the total number of rentable square feet of space in the Building, which the parties agree Tenant's Proportionate Share is sixty three percent (63%) as of the Commencement Date. If Landlord develops a new building on the Property, the parties will amend Tenant's Proportionate Share to equitable recalculate Tenant's Proportionate Share based on an expanded square footage of all buildings on the Property.

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(c) The foregoing items of additional rent set forth in Section 3(b)(i)—(iv) are, collectively, the "**Operating Expenses**". Operating Expenses shall not include costs for the expenses set forth on Exhibit E. The Base Rent plus the Operating Expenses shall be the "**Rent**". From and after the Commencement Date, monthly Base Rent and the monthly installment of estimated Operating Expenses shall be payable on the first day of each month beginning on the first day of the first full calendar month of the Term. The Rent for any partial month at the beginning of the Term shall be prorated and shall be due on the Commencement Date. In the event Tenant fails to pay Base Rent, Operating Expenses, or any other payment called for under this Lease within five (5) Business Days of the time period specified, Tenant shall pay, as additional rent, a late charge equal to eight percent (8%) of the unpaid amount, which late charge shall be paid with the required payment; provided, however, Landlord shall provide written notice to Tenant and ten (10) days to cure such failure to pay at least one time every twelve (12)-month period prior to applying such late charge.

(d) The monthly installment of Tenant's Proportionate Share of Operating Expenses shall initially be the amount set forth in Section 3(b), which represents Landlord's estimate of Operating Expenses. Not more than once in any calendar year, Landlord may deliver to Tenant a revised good faith estimate of Tenant's Proportionate Share of Operating Expenses, and thereafter the monthly installments of Tenant's Proportionate Share of Operating Expenses shall be paid by Tenant in accordance with such estimate, subject to final adjustment as set forth in Section 3(e).

(e) By April 1 of each calendar year of the Term, but no later than June 1 of such calendar year, Landlord shall furnish to Tenant a statement of actual Operating Expenses incurred for the prior calendar year (the "**Reconciliation Statement**"), which shall include reasonable detail. Subject to the below, if Tenant's payments for Operating Expenses for the calendar year covered by the Reconciliation Statement exceeded Tenant's Proportionate Share of the actual Operating Expenses as indicated in the Reconciliation Statement, then Landlord shall credit or reimburse Tenant for such excess payments within ninety (90) days of delivery of the Reconciliation Statement (and if not credited or reimbursed, Tenant may offset such amount against the payment(s) of Rent next coming due); conversely, if Tenant's payments for Operating Expenses paid for such calendar year are less than Tenant's Proportionate Share of the actual Operating Expenses as indicated in the Reconciliation Statement, then Tenant shall pay Landlord such deficiency within ninety (90) days of receipt of the Reconciliation Statement. Tenant shall have the right to have Landlord's books and records pertaining to Operating Expenses for the calendar year covered by such Reconciliation Statement reviewed and audited ("**Tenant's Audit**"), provided: (i) such right shall not be exercised more than once during any calendar year; (ii) Tenant shall provide Landlord with written notice no later than ninety (90) days following Tenant's receipt of the Reconciliation Statement for the year to which Tenant's Audit will apply; (iii) Tenant shall have no right to conduct Tenant's Audit if an Event of Default then currently exists; (iv) conducting Tenant's Audit shall not relieve Tenant from the obligation to pay Operating Expenses, as billed by Landlord, pending the outcome of such audit; (v) Tenant shall commence Tenant's Audit no later than one hundred fifty (150) days following Tenant's receipt of the Reconciliation Statement for such year, and Tenant's Audit shall conclude forty-five (45) days following the date that Landlord makes available to Tenant electronically all applicable reasonably requested books and records needed for Tenant's Audit; (vi) Tenant's Audit shall be conducted at Landlord's office where the records of the year in question are maintained by Landlord, during Landlord's normal business hours; (vii) Tenant's Audit shall be conducted at Tenant's sole cost and expense, provided that if Tenant's audit shows that Tenant overpaid by five percent (5%) or more, Landlord shall reimburse Tenant for the reasonable out-of-pocket costs incurred by Tenant's

Audit; (viii) Tenant's Audit shall be conducted by a qualified employee/consultant of Tenant and/or a reputable certified public accountant or other qualified professional who has experience reviewing financial operating records of commercial building landlords, provided that such qualified professional shall not be retained on a contingency or performance bonus basis; and (ix) Tenant shall provide to Landlord a copy of Tenant's findings associated with Tenant's Audit within ten (10) days following the completion of such audit.

(f) In the event Tenant's Audit shows documentation reasonable acceptable to Landlord reflecting the calculation of any overstated or understated net amount of Tenant's Proportionate Share of Operating Expenses for the year audited, the net overage or shortfall amount shall be paid to the party entitled to such payment within sixty (60) days following Tenant's receipt of documentation reasonably acceptable to Landlord and Tenant reflecting the calculation of such overstated or understated amount.

4. Facilities Management Fee. "**Facilities Management Fee**" means the annual costs and expenses (including depreciation of capital expenditures, amortized on a straight line basis over a period equal to the useful life of such improvements as determined by Landlord in accordance with its customary accounting principles consistently applied) incurred by Landlord in connection with the ownership, operation, maintenance, and repair of the Building, including the areas of the Premises that Landlord is responsible to repair and maintain, and the Common Areas, as determined by Landlord in accordance with its customary accounting principles consistently applied, such costs including, without limitation, all costs related to:

(i) Landlord's obligations described in Section 6 herein;

(ii) landscaping and maintaining the grounds around the Building and Common Areas;

(iii) paving, maintaining and repairing all parking areas (employee or otherwise), driveways, roads, alleys and sidewalks and costs of maintaining easements, if any, granted to governmental bodies;

(iv) maintaining and repairing all storm water drainage and detention facilities (including storm water impact fees, assessments or other similar charges imposed by any governmental authority);

(v) maintaining and repairing all sanitary sewer facilities;

(vi) maintaining and repairing all utilities, meters, and backflow preventers serving the Building and leased and unleased space in the Building (including Common Areas);

(vii) exterior painting; and fire alarm and access control (however, Tenant shall separately reimburse Landlord for the cost to issue each security access badge to Tenant's employees);

(viii) third-party service and maintenance contracts;

(ix) supplies and materials related to any of the foregoing;

(x) cleaning and other janitorial services for the Building. If Tenant requires special or additional janitorial services that are not included in the services provided to all occupants of the Building, Tenant shall directly arrange for such additional services with and reimburse Landlord's service provider (currently, Jones Lange LaSalle Americas, Inc.);

(xi) costs for improvements made to the Building or Common Areas which are expected to reduce the normal operating or utility costs of the Building, and improvements made in order to comply with any laws, orders, judgments or regulations enacted after the date hereof or any new interpretations of any laws, orders, judgments and regulations hereafter rendered with respect to any existing law; all of which expenses shall be amortized on a straight line basis over a period equal to the useful life of such improvements as determined by Landlord in accordance with its customary accounting principles consistently applied;

(xii) Common Area and equipment maintenance therein, including in the kitchens, cafeteria, lounges, and the like;

(xiii) maintaining and repairing, as needed, chilled water systems, compressed air systems, exhaust systems, vacuum systems, fire sprinkler systems, humidification systems, paging systems, announcement systems, alarms; and

(xiv) maintaining and repairing, as needed, of Arc Flash cabinet rating and updated one-line flash drawing for electrical safety.

"**Common Areas**" shall mean those areas and facilities which may be furnished by Landlord or others in or for the Property for the nonexclusive general use by Tenant, including (without limitation) lobbies, reception areas, shared restrooms, shared break rooms, parking areas, access areas (other than public streets), employee parking areas, truck ways, parkways, drives, driveways, loading docks and areas, utility rooms, delivery passageways, package pick-up stations, sidewalks, interior and exterior pedestrian walkways, courts, ramps, common seating areas, landscaped and planted areas, retaining walls, balconies, stairways, elevators, halls, drinking fountains, lighting facilities, and other similar areas, facilities or improvements.

5. **Maintenance and Repairs by Tenant**. Notwithstanding Section 6 below, Tenant shall keep and maintain the Premises, in good order and repair, except for portions of the Premises required or agreed to be repaired by Landlord hereunder, and keep the Premises free and clear of trash and debris and in a clean and sanitary condition. If Tenant fails to so maintain or to make said repairs after thirty (30) days' notice to Tenant without cure, Landlord may, but shall not be obligated to, make such repair, in which event Tenant shall, upon written demand, promptly reimburse Landlord, as additional Rent, for all reasonably incurred expenses. Landlord shall allow Tenant reasonable access to install and maintain any conduits in the Building to the extent necessary for purposes of running voice and data wiring and cabling.

6. Repairs by Landlord.

(a) Landlord agrees to keep in good repair the roof, the floor slab, foundations, structural elements of the Building, exterior paved areas and exterior walls, utility lines, plumbing, heating, ventilation, and air conditioning systems and to perform any capital improvements or replacements to any of the systems serving the Building or any capital expenditures as may be necessary or appropriate in Landlord's reasonable discretion with respect to the Building and the Property. Tenant shall promptly notify Landlord in writing of any damage covered under this Section 6, and Landlord shall be under no duty to repair unless it receives written notice of such damage. Tenant shall be responsible for the cost of any damage to any portion of the Premises or other portions of the Building or the Property caused by Tenant's use and occupancy or caused by the acts or omissions of Tenant or Tenant's Agents, however, Landlord shall perform any necessary repairs to the extent any damage is outside of the Premises or if Landlord is in charge of the damaged area under this Section 6. Upon written demand, Tenant shall promptly reimburse Landlord, as additional Rent, for any repairs or maintenance required with respect to any portion of the Premises or other portions of the Building or the Property caused by the acts or omissions of Tenant or Tenant's Agents.

(b) Landlord has the right to require Tenant to shut down operations at the Premises no more than twenty-four (24) days in each calendar year for the purpose of repairs and maintenance to any part of the Building or the systems serving the Building. Landlord and Tenant shall cooperate in good faith with each other to enable such shut downs, and Landlord shall provide Tenant with reasonably sufficient prior notice (via email and telephone to Tenant) to minimize disruption to Tenant's operations.

7. Modifications and Alterations to the Premises. No modifications or alterations to the Premises, installation or attachment of fixtures in and to the Premises, or alterations to the exterior of the Building (including the roof), shall be made by Tenant without the prior written consent of Landlord except that, in any twelve (12)-month period, Tenant may perform, without Landlord's consent, up to [* * *] Dollars ($[* * *]) of non-structural, interior alterations that do not alter or interfere with the Separation Work, are not visible from the exterior of the Building, and do not affect the roof, the Building floor slab or any systems serving the Building ("**Tenant's Non-Structural Alterations**"). Any plans for modification or alteration to the Premises, whether or not Landlord's consent is required and unless cosmetic in nature or made to Tenant's Property, shall, at Landlord's election, be reviewed by a third party engineer or architect of Landlord's choosing and Tenant shall pay the costs of such review. To the extent Tenant requires Landlord's consent for Tenant's Non-Structural Alterations, if Landlord fails to object to the same within thirty (30) days of receipt of Tenant's written request therefor, Tenant shall be permitted to perform such Tenant's Non-Structural Alterations, and if Landlord objects within thirty (30) days of receipt of Tenant's written request therefor, the parties shall work in good faith to coordinate with each other to make such changes to satisfy Landlord's requirements. Any architect's or engineering plans that may be required for permitting shall be performed by architects or engineers insured and licensed in the State of Nebraska. In the event any such modifications or alterations are performed by Tenant in accordance with the provisions of this Lease (whether or not requiring Landlord's consent), the same shall be completed in accordance with all applicable codes and regulations. Any alterations or improvements to the Premises made by Tenant shall at once become the property of Landlord and shall be surrendered to Landlord

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upon the expiration or prior termination of this Lease; provided, however, Landlord has the option by written notice at the time of Landlord's approval of Tenant's plans for any modification or alteration to the Premises, to require Tenant to remove any improvements or repair any alterations in order to restore the Premises to the condition existing on the Commencement Date. With respect to any modification or alteration to the Premises not requiring Landlord's consent pursuant to this Section 8, or to which Landlord did not consent, Tenant shall remove any improvements or repair any alterations in order to restore the Premises to the condition existing on the Commencement Date unless Landlord has agreed to otherwise in writing. Tenant shall have no right to go upon, occupy or use all or any portion of the roof of the Building for any purpose, without the prior written consent of and on the terms of Landlord. Tenant covenants and agrees that it shall not cause the estate of Landlord in the Premises to become subject to any lien, charge or encumbrance arising from labor performed or materials furnished to the Premises by or at the request of Tenant; provided, that if a lien shall be filed, Tenant shall have the same removed or bonded off within thirty (30) days of receipt to notice thereof. Within sixty (60) days of completion, Tenant shall deliver to Landlord a complete copy of the "as-built" or final plans and specifications, if applicable, or other appropriate documentation describing the alterations or improvements made by or on behalf of Tenant in or to the Premises.

8. End of Term. In addition to complying with the provision set forth in Section 20 "Decommissioning," at the expiration or prior termination of the Term, Tenant shall quit and surrender possession of the Premises to Landlord in as good order and condition as when Tenant took possession and as thereafter improved by Landlord and/or Tenant, excepting reasonable wear and tear, casualties, alterations or other interior improvements which Tenant is permitted to keep in place pursuant to Section 7 at the termination of this Lease. In addition, Tenant shall remove all of Tenant's Property, including, without limitation, saw-off and grounding smooth all floor anchors on equipment or machinery, remove all low voltage cables and networking equipment, telecommunications equipment, and vertical utility cables and lines back to their respective junction boxes. Tenant shall repair, at its expense, all damage to the Premises caused by such removal. For the avoidance of doubt, Tenant shall not make repairs to areas of the Premises which Landlord is in charge of making under Section 6, however, Tenant shall pay the cost of such repairs if there is damage (beyond reasonable wear and tear) resulting from Tenant's use or occupancy of the Premises or Common Areas or resulting from the acts or omissions of Tenant or Tenant's Agents. Notwithstanding the fact that Tenant may have installed or paid for the installation of the following items without the prior written consent of Landlord, Tenant shall not remove any of the following: building fixtures, electrical distribution wiring and panels, lighting or lighting fixtures, wall coverings, fire extinguishers, carpets or other floor coverings, heaters, air conditioners or any other heating or air conditioning equipment, attached water coolers or drinking fountains, fencing or security gates; dock levelers and dock equipment; water heaters or other similar building operating equipment. At the expiration or prior termination of this Lease Tenant shall return the Premises to Landlord vacant, broom clean, normal wear and tear and damage by casualty excepted. Failure to comply with this Section 8, which failure continues for more than ten (10) days following Tenant's receipt of written notice from Landlord, will constitute holding over by Tenant. In the event this Lease is terminated for any reason, any property remaining in or upon the Premises may be deemed to be abandoned by Tenant and become property of Landlord and Landlord may dispose of same with no liability to Landlord and no obligation to Tenant.

9. Taxes. During each month of the Term, on the same date and in the same manner as provided above for Operating Expenses, Tenant shall also pay Landlord as additional rent an amount equal to one-twelfth (1/12th) of Tenant's Proportionate Share of Taxes allocable to the Property. The term "**Taxes**" includes all real property and personal property taxes, charges, impositions, fines, levies, burdens and assessments of every kind and nature (including dues and assessments by means of deed restrictions and/or owners' associations) which accrue against the Property during the Term, and federal, state and local taxes or charges assessed against the Propertyby any governmental or quasi-governmental body or authority, (except for income, or franchise taxes applicable against Landlord), whether special, general or extraordinary, foreseen or unforeseen (provided, however, if the method of taxation then prevailing shall be altered so that any method of taxation shall be levied or imposed upon Landlord in place or partly in place of any such real property taxes and assessments and shall be measured by or based in whole or in part upon the Base Rent payable under this Lease or other rents or other income from the ownership of the Property, then all such new taxes, assessments, levies, impositions or charges shall be included in Taxes), together with reasonable fees paid to consultants and attorneys for services appealing and/or contesting ad valorem taxes and assessments, or in lieu of the use of consultants, a fee for Landlord's personnel charged with such duties in an amount equal to twenty percent (20%) of the tax savings realized. Payments for any fractional calendar month shall be prorated. Not more than once in any calendar year, Landlord may deliver to Tenant a good faith estimate of the amount of Tenant's Proportionate Share of Taxes owed by Tenant under this Lease, and thereafter, monthly installments of Tenant's Proportionate Share of Taxes owed by Tenant under this Lease shall be adjusted in accordance with such estimate. By April 1 of each calendar year during the Term, but in no event later than June 1 of such calendar year, Landlord shall furnish to Tenant a statement of Taxes for the previous calendar year (the "**Tax Statement**"), and in the same manner as provided above for Operating Expenses, any excess or deficiency shall be credited or paid to Landlord or Tenant, as the case may be (as set forth in Section 3(e)). Landlord shall have the sole and absolute right to appeal to the applicable governing authority any assessment of Taxes pertaining to the Property.

10. Insurance.

(a) Landlord shall keep the property of Landlord insured against "All Risks" for the benefit of Landlord in an amount equivalent to the full replacement value thereof. Landlord agrees that such policy or policies of insurance shall contain a waiver of subrogation clause as to Tenant and Landlord waives, releases and discharges Tenant from all claims and demands whatsoever which Landlord may have or acquire arising out of damage to or destruction of Landlord's property or Landlord's business therein occasioned by fire or other cause, which such claim or demand may arise because of the negligence or fault of Tenant, its agents, employees, customers or business invitees, or otherwise, and Landlord agrees to look to the insurance coverage only in the event of such loss. Landlord may also carry such other types of insurance in form and amounts which Landlord shall determine to be appropriate from time to time. Any and all such insurance maintained by Landlord is hereinafter referred to collectively as "**Landlord's Insurance**"). Any of Landlord's Insurance may be carried under blanket policies covering other properties of Landlord and/or its partners and/or their respective related or affiliated corporations so long as such blanket policies provide insurance at all times for the Property as required by this Lease. During each month of the Term, on the same date and in the same manner as provided above for Operating Expenses, Tenant shall also pay Landlord as additional rent an amount equal

to one-twelfth (1/12th) of Tenant's Proportionate Share of the annual cost of Landlord's Insurance. Payments for any fractional calendar month shall be prorated. Landlord may from time to time deliver to Tenant a good faith estimate of the amount of Tenant's Proportionate Share of Landlord's Insurance, and thereafter, monthly installments of Tenant's Proportionate Share of Landlord's Insurance payable by Tenant shall be adjusted in accordance with such estimate. By April 1 of each calendar year during the Term, or as soon thereafter as practicable, Landlord shall furnish to Tenant a statement of Landlord's Insurance for the previous calendar year (the "**Insurance Statement**"), and in the same manner as provided above for Operating Expenses, any excess or deficiency shall be credited or paid to Landlord or Tenant, as the case may be. Tenant will carry, at Tenant's sole cost and expense, property insurance coverage on all alterations and improvements completed by Tenant and all equipment, inventory, trade fixtures and other personal property of Tenant.

(b) Tenant shall, at Tenant's sole cost and expense, maintain "All Risks" property insurance keeping all of its machinery, equipment, furniture, fixtures, personal property (including also property under the care, custody or control of Tenant), which may be located in, upon, or about the Premises and business interests including the profits thereof insured against "All Risks" for the benefit of Tenant.

(i) General public liability insurance against claims for personal injury, death or property damage occurring upon, in or about the Premises, such insurance to afford additional insured status to Landlord with limits of not less than $2,000,000 per occurrence.

(ii) Workers compensation insurance and employers' liability, waiving (to the extent permissible under state law) subrogation against Landlord with employers' liability coverage of not less than $1,000,000.

(iii) Automobile insurance, to the extent applicable having limits for liability coverage of not less than $1,000,000 per occurrence

(iv) Cyber insurance including network security liability, extortion, and business interruption coverage with limits of not less than $3,000,000 per claim.

Tenant agrees that such policies of insurance shall contain a waiver of subrogation clause as to Landlord and Tenant waives, releases and indemnifies Landlord from all claims or demands whatsoever arising out of injury, damage or destruction of machinery, equipment, furniture, fixtures, personal property, and the business of Tenant, or other property or persons which Tenant is responsible for, occasioned by fire or other cause, whether such claim or demand may arise because of the negligence or fault of Landlord, its agents, employees, subcontractors, and Tenant agrees to look to the insurance coverage only in the event of such loss.

(c) Such insurance shall, in addition and to the extent available, extend to any liability of Tenant arising out of the indemnities provided for in this Lease. If commercially reasonable, Landlord shall have the right to periodically following the expiration of the Term (but not more than once every three (3) years) raise Tenant's required coverage limits hereunder. Commercial general liability policies procured and maintained by Tenant pursuant to this

Section 10(c) shall include Landlord and any additional parties reasonably designated by Landlord (who have an insurable interest) as additional insureds, shall be carried with companies licensed or authorized to do business in the State of Nebraska having a rating from A.M. Best of not less than A-VIII, and shall be non-cancelable and not subject to material change except after thirty (30) days' written notice to Landlord. All liability policies shall be written on an occurrence, not claims made, basis.

(d) Each party hereto waives all rights of recovery, claims, actions or causes of actions arising in any manner in its (the "**Injured Party**") favor and against the other party for loss or damage to the Injured Party's property located within or constituting a part or all of the Property, to the extent the loss or damage: (i) is covered by the Injured Party's insurance, or (b) would have been covered by the insurance the Injured Party is required to carry under this Lease, whichever is greater, regardless of the cause or origin, including the sole, contributory, partial, joint, comparative or concurrent negligence of the other party. This waiver also applies to each party's directors, officers, employees, shareholders, partners, representatives and agents. All insurance described in this Section 10 shall provide for such waiver of rights of subrogation by the Injured Party's insurance carrier to the maximum extent the same is permitted under the laws and regulations governing the writing of insurance within the state in which the Property is located. It is the intention and agreement of Landlord and Tenant that the Base Rent reserved by this Lease has been fixed in contemplation that each party shall fully provide its own property insurance protection, and that each party shall look to its respective property insurance carriers for reimbursement of any such loss, and further, that the insurance carriers involved shall not be entitled to subrogation under any circumstances against any party to this Lease. Neither Landlord nor Tenant shall have any interest or claim in the other's insurance policy or policies, or the proceeds thereof.

(e) On or before the Commencement Date, Tenant shall deliver to Landlord certificates of insurance in form and substance satisfactory to Landlord evidencing that Tenant has procured the insurance which Tenant is required to maintain under this Lease. Any insurance which Tenant is required to maintain under this Lease shall include a provision which requires the insurance carrier to give Landlord not less than ten (10) days' written notice prior to any cancellation of such coverage, and if Tenant is unable to require any insurance carrier to provide such notice, then Tenant shall give Landlord written notice within five (5) Business Days after the date it receives notice of cancellation of such coverage. At least ten (10) days prior to the expiration of any such policy, Tenant shall deliver to Landlord a certificate evidencing the renewal thereof. In the event Landlord has not received evidence of Tenant's compliance with the insurance coverages required by this Section 10(e), and after three (3) Business Days' notice to Tenant of such failure without delivery to Landlord of such evidence, Landlord may, but shall not be required to, secure coverage on behalf of Tenant in the amounts required herein with companies satisfactory to Landlord. Tenant shall pay the costs of such coverage directly, or, if paid by Landlord, upon written demand, promptly reimburse Landlord as additional rent, within thirty (30) days after written notice, for all costs incurred by Landlord in securing such coverage. If thereafter Tenant supplies to Landlord evidence that Tenant is maintaining the insurance required under this Lease, Landlord shall promptly cancel the replacement coverage it obtained and Tenant shall no longer be liable for the cost of the insurance Landlord procured under the immediately preceding sentence. If Tenant provides any insurance required by this Lease in the form of a blanket policy, Tenant shall furnish satisfactory proof that such blanket policy complies in all respect with the provisions of this Lease, and that the coverage thereunder is at least equal to the type, quality and substance of the coverage which would be provided under a separate policy covering only the Premises.

11. Indemnity.

(a) Subject to Section 10(d), Tenant agrees to indemnify and hold harmless Landlord and its officers, members, agents and employees from and against any liability, judgments, claims, demands, suits, actions, losses, penalties, fines, damages, costs and reasonable expenses (including reasonable attorneys' fees and court costs) of any kind or nature whatsoever, due to or arising out of Tenant's negligence or intentional misconduct (whether acts or omissions) of Tenant or its agents, contractors, employees or licensees. The indemnification obligations in this Section 11 shall survive the earlier expiration or termination of this Lease.

(b) Subject to Section 10(d), Landlord agrees to indemnify and hold harmless Tenant and its officers, members, agents and employees from and against any liability, judgments, claims, demands, suits, actions, losses, penalties, fines, damages, costs and reasonable expenses (including reasonable attorneys' fees and court costs) of any kind or nature whatsoever, due to or arising out of Landlord's negligence or intentional misconduct (whether acts or omissions) of Landlord, or its agents, contractors, employees or licensees. The indemnification obligations in this Section 11 shall survive the earlier expiration or termination of this Lease.

(c) In the event Landlord and Tenant are determined to be contributorily responsible for the indemnified injury or loss, each indemnitor's obligation shall be limited to the indemnitor's equitable share of the losses, costs or expenses to be indemnified against based on the relative culpability of each indemnifying person whose negligence or willful acts or omissions contributed to the injury or loss.

12. Compliance with Laws. Landlord shall comply with all applicable requirements of any legally constituted public authority applicable to Landlord's premises in the Building, to the extent any such non-compliance would prevent Tenant from using the Premises for the Permitted Purpose. Tenant agrees, at its own expense, to promptly comply with all applicable requirements of any legally constituted public authority made necessary by reason of Tenant's use or occupancy of the Premises or operation of its business. Notwithstanding anything to the contrary contained in this Lease, Tenant shall be responsible for any and all costs and expenses arising from any violations of environmental laws or regulations caused by Tenant's activities or Tenant's occupancy of the Premises.

13. Destruction of or Damage to Premises. If the Premises are damaged or destroyed by fire or other casualty, this Lease and all of its terms, covenants and conditions shall, subject to the provisions hereinafter set forth, continue in full force and effect; provided, if more than fifty percent (50%) of the Premises is rendered unusable for Tenant's intended use and, in Landlord's reasonable opinion, the Premises cannot be restored within one hundred eighty (180) days after the date of such damage or destruction, or if the proceeds from Landlord's insurance remaining (after required payment to any mortgagee, lender or lessor of Landlord, if any) are insufficient to repair such damage or destruction, then either Landlord or Tenant shall have the right, at the option of either party, to terminate this Lease by giving the other written notice within sixty (60) days

after such damage or destruction. Within thirty (30) days after the date of such damage or destruction, Landlord shall give notice to Tenant of its reasonable opinion as to the number of days needed to restore the Premises so that Tenant may resume normal business operations therein. Notwithstanding anything to the contrary in this Lease, in the event that the Premises is damaged, but not so destroyed (as set forth above) to terminate the Lease, or Landlord elects to rebuild, and provided that the Term of this Lease shall have at least fifteen (15) months remaining, and that applicable laws shall permit, then, and in those events, the Landlord shall repair and rebuild the Premises with reasonable diligence. Notwithstanding the foregoing: (i) (A) in the event there is less than two (2) years of the Lease Term remaining, or (B) in the event Landlord's mortgagee should require that the insurance proceeds payable as a result of a casualty be applied to the payment of the mortgage debt and Landlord does not promptly commit to restore with Landlord's funds, or (C) in the event of any material uninsured loss to the Building and Premises and Landlord does not promptly commit to restore with Landlord funds, then Tenant may terminate this Lease by notifying Landlord in writing of such termination within ninety (90) days after the date of such casualty, or (ii) if the written estimate states that the Premises cannot be restored to substantially the condition that existed prior to the casualty within one hundred eighty (180) days of the casualty, then Tenant may, at its option, terminate this Lease by notifying the Landlord in writing of such termination within one hundred twenty (120) days after the date of such casualty. Within sixty (60) days of such casualty, Landlord shall notify Tenant whether the Premises cannot be restored to the condition that existed prior to the casualty within one hundred eighty (180) days of the casualty. In addition, if the Premises is not restored within two hundred seventy (270) days after the date of such casualty, then Tenant may, at its option, send a 30 day notice to terminate this Lease and if the Premises is not restored by the end of such 30 day period, this Lease shall automatically terminate. In the event of any termination under this Section 13, Rent shall be apportioned and paid up to the date of such casualty. If the Premises are damaged, but this Lease is not terminated, Rent shall abate in such proportion as use of the Premises has been destroyed, and Landlord shall, subject to the receipt of sufficient insurance proceeds, promptly restore the Premises to substantially the same condition as before damage, whereupon full rental shall recommence. Landlord shall not be responsible for restoring or insuring Tenant's Property.

14. Condemnation. If the whole of the Premises, or such portion thereof as will make the Premises unusable for Tenant's intended use, shall be condemned by any legally constituted authority for any public use or purpose, or sold under threat of condemnation, then, in any of said events, the Term of this Lease shall cease from the time when possession or ownership thereof is taken by public authorities and Base Rent shall be accounted for as between Landlord and Tenant as of that date. Such termination, however, shall be without prejudice to the rights of either Landlord or Tenant to recover compensation and damage caused by condemnation from the condemnor. It is further understood and agreed that neither Tenant, nor Landlord, shall have any rights in any award made to the other by any condemnation.

15. Assignment.

(a) Tenant shall not, without the prior written consent of Landlord, which Landlord can withhold in its sole and absolute discretion, directly or indirectly, voluntarily or involuntarily, by operation of law, merger, consolidation, reorganization or otherwise (including without limitation through the transfer of a direct or indirect majority interest of stock, partnership interests or other ownership interests in Tenant, or through merger, or dissolution), mortgage, pledge, encumber, sell, transfer or assign this Lease, in whole or in part, or sublease all or any part of the Premises, or permit the use or occupancy of all or any part of the Premises by any other party (all of the foregoing being referred to herein as an "**Assignment**"). In no event is Tenant permitted to sublet or license all or any portion of the Premises.

(b) Tenant shall notify Landlord in writing of any proposed Assignment at least thirty (30) days prior to the date of such Assignment and shall provide information and documentation regarding the proposed assignee, creditworthiness, experience and such other matters as Landlord may reasonably request. Landlord shall have fifteen (15) days from receipt of all information required by the proceeding sentence within which to elect, in its sole and absolute discretion, to: (i) reject the proposed Assignment and to thereby continue this Lease in full force and effect as if such Assignment had never been proposed, or (ii) consent to the proposed Assignment. In the event any rental due and payable by any assignee under any such permitted Assignment (or a combination of the rental payable under such Assignment plus any bonus or any other consideration or any payment incident thereto) exceeds the Base Rent payable under this Lease, Tenant shall pay to Landlord fifty percent (50%) of all such excess rental and other excess consideration, net of Tenant's Transfer Costs (defined herein), within ten (10) days following receipt thereof by Tenant. "**Tenant's Transfer Costs**" shall mean the outstanding balance from time to time of the sum of the following items: (A) the cost of any additional tenant improvements paid by Tenant required for the Assignment of such portion of the Premises; (B) reasonable market leasing commissions paid by Tenant in connection with the Assignment; and (C) reasonable marketing expenses and market concessions (including rent abatement) paid by Tenant to assign this Lease (to the extent not included in a brokerage commission paid by Tenant); provided, however, Tenant shall be entitled to the remaining fifty percent (50%) of such excess rent. Upon written demand, Tenant shall promptly reimburse Landlord for Landlord's costs and expenses, including, without limitation, a processing fee of Two Thousand Five Hundred and 00/100 Dollars ($2,500.00) to cover Landlord's administrative expenses and attorney's fees, in connection with any proposed Assignment covered under this Section 15 where Landlord's written consent is required.

(c) In the event of any Assignment, Tenant shall remain fully liable for the performance of all the terms and conditions of this Lease. No assignee of the Premises or any portion thereof may assign or sublet the Premises or any portion thereof. Landlord shall have the right at any time to sell, transfer or assign, in whole or in part, by operation of law or otherwise, its rights, benefits, privileges, duties, obligations or interests in this Lease or in the Premises, the Property, and all other buildings, land, or property referred to herein, without the consent of Tenant, and such sale, transfer or assignment shall be binding on Tenant. After such sale, transfer or assignment Tenant shall attorn to such purchaser, transferee or assignee, and Landlord shall be released from all liability and obligations under this Lease accruing after the effective date of such sale, transfer or assignment.

16. Hazardous Materials.

(a) Definitions.: As used in this Lease, the following terms have the following meanings:

"**Environmental Law**" means any past, present or future federal, state or local statutory or common law, or any regulation, ordinance, code, plan, order, permit, grant, franchise, concession, restriction or agreement issued, entered, promulgated or approved thereunder, relating to (i) the environment, human health or safety, including, without limitation, emissions, discharges, releases or threatened releases of Hazardous Materials (defined below) into the environment (including, without limitation, air, surface water, groundwater or land), or (ii) the manufacture, generation, refining, processing, distribution, use, sale, treatment, receipt, storage, disposal, transport, arranging for transport, or handling of Hazardous Materials.

"**Environmental Permits**" mean collectively, any and all permits, consents, licenses, approvals and registrations of any nature at any time required pursuant to, or in order to comply with, any applicable Environmental Law or other law including, but not limited to, any Spill Control Countermeasure Plan and any Hazardous Materials Management Plan.

"**Hazardous Materials**" shall mean and include any hazardous or toxic materials, substances or wastes as now or hereafter designated or regulated under any Environmental Law, including, without limitation, asbestos, petroleum, petroleum hydrocarbons and petroleum based products, urea formaldehyde foam insulation, polychlorinated biphenyls ("**PCBs**"), freon and other chlorofluorocarbons, "biohazardous waste," "medical waste," "infectious agent", or "mixed waste".

"**Release**" shall mean with respect to any Hazardous Materials, any release, deposit, discharge, emission, leaking, pumping, leaching, spilling, seeping, migrating, injecting, pumping, pouring, emptying, escaping, dumping, disposing or other movement of Hazardous Materials.

(b) Tenant's Obligations – Environmental Permits. Tenant will (i) obtain and maintain in full force and effect all Environmental Permits that may be required from time to time under any Environmental Laws applicable to Tenant or the Premises and (ii) be and remain in compliance with all terms and conditions of all such Environmental Permits and with all other limitations, restrictions, conditions, standards, prohibitions, requirements, obligations, schedules and timetables contained in all Environmental Laws applicable to Tenant or the Premises. Notwithstanding the foregoing, Landlord shall apply to the City of Holdrege, NE (the "**City**") for permission to allow Tenant to discharge wastewater from Tenant's operations at the Premises pursuant to that certain existing Waste Water Discharge Agreement between the City and Landlord attached on Exhibit F (such wastewater permit and any supplement to, modification of, or substitute wastewater permit used by Tenant, the "**Wastewater Permit**"). If Tenant contemplates any changes in Tenant's operations at the Premises or wastewater effluent that has the reasonably likely potential to (x) negatively impact operation of the City's wastewater treatment plant or (y) impact Landlord's permit, Tenant shall give at least sixty (60) days prior written notice to Landlord or as soon Tenant becomes aware of such change. Tenant will comply with all authorization conditions and sampling requirements related to any Wastewater Permit, whether or not discharging under a shared permit with Landlord, and shall fully cooperate at Tenant's own cost with Landlord in investigating any non-compliance with said permit. Tenant may not increase the volume or change the constitution of its wastewater effluent without the prior written consent of Landlord. Tenant will indemnify Landlord for Tenant's use of any Wastewater Permit in accordance with Section 16(g).

(c) Tenant's Obligations – Hazardous Materials. Except as expressly permitted herein and as set forth on Exhibit G herein, Tenant agrees not to cause or permit any Hazardous Materials to be brought upon, stored, used, handled, generated, released or disposed of on, in, under or about the Premises, or any other portion of the Property by Tenant, its agents, employees, subtenants, assignees, licensees, contractors or invitees (collectively, "**Tenant's Agents**"), without the prior written consent of Landlord, which consent Landlord may withhold in its sole and absolute discretion. Landlord acknowledges that it is not the intent of this Section 16(c) to prohibit Tenant from operating its business for the uses permitted hereunder. Tenant may operate its business according to the custom of Tenant's industry and /or based on Tenant's historical ordinary course of business so long as the use or presence of Hazardous Materials is strictly and properly monitored in accordance with applicable Environmental Laws. As a material inducement to Landlord to allow Tenant to use Hazardous Materials in connection with its business, Tenant agrees to deliver to Landlord prior to the Commencement Date a list identifying each type of Hazardous Material to be present at the Premises and setting forth any and all governmental approvals or permits required in connection with the presence of such Hazardous Material at the Premises (the "**Hazardous Materials List**"). Tenant shall deliver to Landlord an updated Hazardous Materials List annually and shall also deliver an updated Hazardous Materials List before any new Hazardous Materials are brought to the Premises. Tenant shall deliver to Landlord true and correct copies of the following documents (the "**Documents**") relating to the handling, storage, disposal and emission of Hazardous Materials prior to the Commencement Date or, if unavailable at that time, concurrently with the receipt from or submission to any governmental authority: permits; approvals; reports and correspondence; storage and management plans; notices of violations of applicable Environmental Laws; plans relating to the installation of any storage tanks to be installed in, on, under or about the Premises (provided that installation of storage tanks shall only be permitted after Landlord has given Tenant its written consent to do so, which consent Landlord will not unreasonably withhold; and all closure plans or any other documents required by any and all governmental authorities for any storage tanks installed in, on, under or about the Premises for the closure of any such storage tanks. For each type of Hazardous Material listed, the Documents shall include (s) Safety Data Sheet, (t) the chemical name, (u) the material state (e.g., solid, liquid, gas or cryogen), (v) the concentration, (w) the storage amount and storage condition (e.g., in cabinets or not in cabinets), (x) the use amount and use condition (e.g., open use or closed use), (y) the location (e.g., room number or other identification) and (z) if known, the chemical abstract service number. Tenant shall not be required, however, to provide Landlord with any portion of the Documents containing information of a proprietary nature, which Documents, in and of themselves, do not contain a reference to any Hazardous Materials or activities related to Hazardous Materials. Upon the expiration or earlier termination of this Lease, Tenant agrees to promptly remove from the Premises, the Building and the Property, at its sole cost and expense, any and all Hazardous Materials, including any equipment or systems containing Hazardous Materials which are installed, brought upon, stored, used, generated or released upon, in, under or about the Premises, the Building and/or the Property or any portion thereof by Tenant or any of Tenant Agents during the Term of this Lease.

(d) Landlord's Right to Conduct Environmental Assessment. Landlord represents to Tenant that as of the date of this Lease and to the best of Landlord's knowledge, there have been no Releases of Hazardous Materials in violation of Environmental Laws in the Building, Premises or at the Property. This representation shall survive expiration or sooner termination of this Lease. If any pre-existing Releases of Hazardous Materials are subsequently

discovered, Landlord shall be solely and exclusively responsible for all such costs associated with the remediation thereof. At any time during the Term, Landlord shall have the right, at Landlord's sole cost and expense, to conduct an environmental assessment of the Building or the Premises (as well as any other areas in, on or about the Property that Landlord reasonably believes may have been affected adversely by Tenant's use of the Building or the Premises (collectively, the "**Affected Areas**") in order to confirm that the Building or Premises and the Affected Areas do not contain any Hazardous Materials in violation of applicable Environmental Laws or under conditions constituting or likely to constitute a Release of Hazardous Materials. Such environmental assessment shall be a Phase I Environmental Site Assessment or such other level of investigation which shall be the standard of diligence in the purchase or lease of similar property at the time, Tenant shall be responsible for paying for any additional investigation or report required based on a recognized environmental condition, which would customarily follow any discovery contained in such initial Phase I assessment (including, but not limited to, a Phase II Environmental Site Assessment). Such right to conduct such environmental site assessments shall not be exercised by Landlord more than once per calendar year unless an Event of Default exists hereunder.

(e) Tenant's Obligations to perform Corrective Action. If the data from any environmental site assessment authorized and undertaken by Landlord pursuant to Section 16(e) indicates there has been a Release, threatened Release or other conditions with respect to Hazardous Materials on, under or emanating from the Building, the Premises and the Affected Areas that may require any investigation and/or active response action, including without limitation active or passive remediation and monitoring or any combination of these activities ("**Corrective Action**"), Tenant shall immediately undertake Corrective Action with respect to contamination if, and to the extent, required by the governmental authority exercising jurisdiction over the matter. Any Corrective Action performed by Tenant will be performed with Landlord's prior written approval, not to be unreasonably withheld, delayed or conditioned and in accordance with applicable Environmental Laws, at Tenant's sole cost and expense and by an environmental consulting firm (reasonably acceptable to Landlord). Tenant may perform the Corrective Action before or after the expiration or earlier termination of this Lease, to the extent permitted by governmental agencies with jurisdiction over the Premises, the Building and the Property. Tenant or its consultant may install, inspect, maintain, replace and operate remediation equipment and conduct the Corrective Action as it considers necessary, subject to Landlord's written consent as set forth above (i.e., not to be unreasonably withheld, delayed or conditioned). Tenant and Landlord shall, in good faith, cooperate with each other with respect to any Corrective Action after the expiration or earlier termination of this Lease so as not to interfere unreasonably with the conduct of Landlord's or any third party's business on the Premises, the Building and the Property. Landlord may, in its sole discretion, provide access until Tenant delivers evidence reasonably satisfactory to Landlord that Tenant's Corrective Action activities on the Premises and the Affected Areas satisfy applicable Environmental Laws. It shall be reasonable for Landlord to require Tenant to deliver a "no further action" letter or substantially similar document from the applicable governmental agency. Tenant agrees to install, at Tenant's sole cost and expense, screening around its remediation equipment so as to protect the aesthetic appeal of the Premises, the Building and the Property. Tenant also agrees to use reasonable efforts to locate its remediation and/or monitoring equipment, if any (subject to the requirements of Tenant's consultant and governmental agencies with jurisdiction over the Premises, the Building and the Property) in a location which will allow Landlord, to the extent reasonably practicable, the ability to lease the

Premises, the Building and the Property to a subsequent user. Any Hazardous Materials contamination on, in, under or about the Premises and the Affected Areas at the expiration or earlier termination of this Lease which is not disclosed by Tenant prior to the Effective Date shall be presumed to have arisen in connection with Tenant's environmental activities under this Lease. Notwithstanding anything above to the contrary, if any clean-up or monitoring procedure is required by any applicable governmental authorities in, on, under or about the Premises and the Affected Areas during the Term as a consequence of any Hazardous Materials contamination and the procedure for clean-up is not completed (to the satisfaction of the applicable governmental authorities) prior to the expiration or earlier termination of this Lease then Tenant shall remain obligated to perform the same right until the date that the clean-up procedure is completed.

(f) Tenant's Duty to Notify Landlord Regarding Releases. Tenant agrees to promptly notify Landlord of any Release of Hazardous Materials in the Premises, the Building or any other portion of the Property which Tenant becomes aware of during the Term of this Lease, whether caused by Tenant or any other persons or entities. In the event of any release of Hazardous Materials caused or permitted by Tenant or any of Tenant Agents, Landlord shall have the right, but not the obligation, to cause Tenant, at Tenant's sole cost and expense, to immediately take all reasonable steps Landlord deems necessary or appropriate to remediate such Release and prevent any similar future release to the satisfaction of Landlord and Landlord's mortgagee(s). Tenant will, upon the request of Landlord at any time during which Landlord has reason to believe that Tenant is not in compliance with this Section 16 (and in any event no earlier than sixty (60) days and no later than thirty (30) days prior to the expiration of this Lease), cause to be performed an environmental site assessment of the Premises at Tenant's expense by an established environmental consulting firm reasonably acceptable to Landlord. In the event the audit provides that Corrective Action is required then Tenant shall immediately perform the same at its sole cost and expense.

(g) Tenant's Environmental Indemnity. To the fullest extent permitted by law, Tenant agrees to promptly indemnify, protect, defend and hold harmless Landlord, and Landlord's members, partners, sub-partners, independent contractors, officers, directors, shareholders, employees, agents, successors and assigns (collectively, the "**Landlord Parties**") from and against any and all claims, damages, judgments, suits, causes of action, losses, liabilities, penalties, fines, expenses and costs (including, without limitation, clean-up, removal, remediation and restoration costs, sums paid in settlement of claims, attorneys' fees, consultant fees and expert fees and court costs) which arise or result from the presence of Hazardous Materials on, in, under or about the Premises, the Building or any other portion of the Property and which are caused or permitted by Tenant or any of Tenant Agents during the Term of this Lease, including arising from or caused in whole or in part, directly or indirectly, by or related to (i) the presence in, on, under or about the Premises and the Affected Areas, of any Hazardous Materials; (ii) Tenant's or Tenant's Agents' actual, proposed or threatened use, treatment, storage, transportation, holding, existence, disposition, manufacturing, control, management, abatement, removal, handling, transfer, generation or Release (past, present or threatened) of Hazardous Materials to, in, on, under, about or from the Premises and the Affected Areas; (iii) non-compliance or violations of any Environmental Laws in connection with Tenant or Tenant's Agents and/or the Premises and/or the Affected Areas for actions arising after the Commencement Date; (iv) personal injury claims; (v) the payment of any environmental liens, or the disposition, recording, or filing or threatened disposition, recording or filing of any environmental lien encumbering or otherwise affecting the

Premises and/or the Affected Areas; (vi) direct damages for the loss or restriction of use of that part of the Premises and/or the Property affected; (vii) the cost of any investigation of site conditions; and (viii) the cost of any repair, clean-up or remediation ordered by any governmental or quasi-governmental agency or body or otherwise deemed necessary in Landlord's reasonable judgment. Tenant's obligations hereunder shall include, without limitation, and whether foreseeable or unforeseeable, all costs of any required or necessary repair, cleanup or detoxification or decontamination of the Premises, the Building and/or the Property, or the preparation and implementation of any closure, remedial action or other required plans in connection therewith; provided, however, that Tenant's indemnity obligation shall not extend to any matter in clauses (i) or (viii) above directly caused or materially exacerbated by Landlord and/or any Landlord Parties. For purposes of the indemnity provisions in this Section 16, any acts or omissions of Tenant and/or Tenant Agents or others acting for or on behalf of Tenant (whether or not they are negligent, intentional, willful or unlawful) shall be strictly attributable to Tenant. The provisions of this Section 16(g) will survive the expiration or earlier termination of this Lease.

(h) Landlord's Environmental Indemnity. Landlord indemnifies and shall defend, hold and save Tenant, and Tenant's members, partners, sub-partners, independent contractors, officers, directors, shareholders, employees, agents, successors and assigns (collectively, "**Tenant Parties**") from and against any and all claims, damages, judgments, suits, causes of action, losses, liabilities, penalties, fines, expenses and costs (including, without limitation, clean-up, removal, remediation and restoration costs, sums paid in settlement of claims, reasonable attorneys' fees, reasonable consultant fees and reasonable expert fees and court costs) which arise or result from the presence of Hazardous Materials on, in, under or about the Premises, the Building or any other portion of the Property and which arise during or after the Lease Term as a result of (i) the environmental condition at the Property existing as of or prior to the Commencement Date; (ii) the presence in, on, under or about the Common Areas or the non-Premises of any Hazardous Materials; (iii) Landlord's or other tenants' actual, proposed or threatened use, treatment, storage, transportation, holding, existence, disposition, manufacturing, control, management, abatement, removal, handling, transfer, generation or Release (past, present or threatened) of Hazardous Materials to, in, on, under, about or from the non-Premises and the Common Areas; (iv) any past or present non-compliance or violations of any Environmental Laws in connection with Landlord or other tenants and/or the Common Areas or the non-Premises; (v) personal injury claims not caused by Tenant or Tenant's Agents; (vi) the payment of any environmental liens, or the disposition, recording, or filing or threatened disposition, recording or filing of any environmental lien encumbering or otherwise affecting the Common Areas or the non-Premises; (vii) damages for the loss or restriction of use of the Common Areas or the non-Premises not caused by Tenant or Tenant's Agents which adversely affects the Permitted Purposes; (viii) the cost of any investigation of site conditions in the Common Areas or non-Premises not caused by Tenant or Tenant's Agents; and (ix) the cost of any repair, clean-up or remediation ordered by any governmental or quasi-governmental agency or body or otherwise deemed necessary in Landlord's reasonable judgment on the Common Areas or non-Premises areas and not caused by Tenant Agents, or (x) Hazardous Materials contamination on or about the Property otherwise to the extent caused by the gross negligence or willful misconduct of any Landlord Party; provided, however, that Landlord's indemnity obligation shall not extend to any matter in clauses (i) or (x) above directly caused or materially exacerbated by Tenant and/or any Tenant Agents. For purposes of the indemnity provisions in this Section 16(h), any acts or omissions of Landlord and/or Landlord's employees, agents, contractors or others acting for or on behalf of Landlord (whether or not they are negligent, intentional, willful or unlawful) shall be strictly attributable to Landlord.

17. Event of Default; Remedies. In the event: any monthly installment of Base Rent, Operating Expenses, or additional rent owed by Tenant to Landlord hereunder is not paid at the time and place when and where due, and Tenant fails to pay any such sum within ten (10) days after written notice from Landlord (provided that Tenant shall have the ability to cure a default for delinquent Rent in accordance with Section 3(c); the Premises shall be deserted or vacated without Landlord's prior written consent (provided that Tenant shall not be deemed to have deserted or vacated the Premises if it ceases operations therein but continues to pay all monthly installment of Base Rent, Operating Expenses or additional rent owed by Tenant to Landlord hereunder and perform its repair and maintenance duties as required under this Lease); Tenant fails to comply with any term, provision, condition, or covenant of this Lease, other than the payment of Tenant's monthly installment of Base Rent, Operating Expenses or additional rent, and such failure is not cured within thirty (30) days after written notice to Tenant of such failure to comply (or in the case of a failure which, by its nature, cannot be cured within such thirty (30)-day period, then within such longer period not to exceed ninety (90) days as may be reasonably necessary to effectuate a cure thereof); or a lien is filed against the Premises or Landlord's estate therein by reason of any work, labor, services or materials performed or furnished, or alleged to have been performed or furnished, to Tenant or anyone holding the Premises by, through or under Tenant, and Tenant fails to cause the same to be vacated and canceled of record, or bonded off in accordance with applicable law, within thirty (30) days after Tenant's receipt of written notice of the filing of such lien (each, an "**Event of Default**"), Landlord shall have the option during the continuance of any such Event of Default, to do any of the following (to the extent permitted by applicable law):

(i) Terminate this Lease, in which event Tenant shall immediately surrender the Premises to Landlord. Tenant agrees to indemnify Landlord for all loss, damage and expense which Landlord may suffer by reason of such termination, whether through inability to relet the Premises, through decrease in rent, through incurring court costs, attorneys' fees or other costs in enforcing this provision or otherwise;

(ii) With or without terminating this Lease, terminate Tenant's right of possession, and, at Landlord's option (with or without notice or resort to legal proceedings) reenter, take possession of and rent the Premises at the best price obtainable by reasonable effort, without advertisement and by private negotiations and for any term Landlord deems proper. Tenant shall be liable to Landlord for the deficiency, if any, between Tenant's Base Rent under this Lease and the rent obtained by Landlord on reletting and for any damage, reasonable attorney's fees or other costs incurred by Landlord in enforcing its rights under this provision, provided, Landlord shall use commercially reasonable efforts to re-lease the Premises to a satisfactory tenant under no less favorable terms and conditions as set forth in this Lease;

(iii) Apply for and obtain a dispossessory action against Tenant and hold Tenant liable for all costs incident to seeking such dispossessory action, including reasonable attorney's fees or other costs; or

(iv) As agent of Tenant, do whatever Tenant is obligated to do by the provisions of this Lease and enter the Premises, by force if necessary, without being subject to prosecution or liable for any claims for damages therefor, to accomplish this purpose. Tenant agrees to reimburse Landlord immediately upon written demand for any expenses which Landlord may incur in thus effecting compliance with this Lease on behalf of Tenant and Tenant further agrees that Landlord shall not be liable for any damages resulting to Tenant from such action, whether caused by negligence of Landlord or otherwise.

Pursuit of any of the foregoing remedies shall not preclude pursuit of any other remedies provided in this Lease or any other remedies provided by law or in equity. Any notice under this Lease may be given by Landlord or its attorney. Upon the existence of any Event of Default, Tenant shall pay to Landlord all costs incurred by Landlord (including court costs and reasonable attorneys' fees and expenses) in (i) obtaining possession of the Premises, (ii) removing and storing Tenant's or any other occupant's property, (iii) repairing, restoring, renovating, altering, remodeling, or otherwise putting the Premises into the condition required of Tenant at the end of the Term, (iv) if Tenant is dispossessed of, or vacates or abandons, the Premises and this Lease is not terminated, reletting all or any part of the Premises (including, but not limited to, brokerage commissions, cost of tenant finish work, advertising and promotional expenses, and other costs incidental to such reletting), (v) performing Tenant's obligations which Tenant failed to perform, and (vi) enforcing its rights, remedies, and recourses arising out of the event of default. If any Base Rent or other sum due and owing under this Lease is collected by or through an attorney at law through the occurrence of an event of default, then, in addition to such sums, Tenant shall also pay Landlord's reasonable attorneys' fees and other reasonable costs incurred in such collection.

18. Access by Landlord. With no less than twenty-four (24) hours' prior notice to Tenant (except in an emergency), Landlord and its agents, employees and representatives shall have the right to enter and/or pass through the Premises at reasonable business hours (except in the event of emergency, when entry may be at any time) during the Term for the purpose of (a) examining and inspecting the Premises to insure compliance by Tenant with the terms and conditions hereof, including, without limitation, the provisions of Section 16; (b) inspecting, testing, monitoring, repairing and maintaining utility lines, fire sprinklers and fire protection systems, alarm systems, backflow preventers, and mechanical, plumbing, HVAC or other systems serving the Building; (c) performing maintenance and making repairs as Landlord is required to perform under the terms and conditions hereof, or performing repairs to Landlord's adjoining property, if any; or (d) showing the Premises to prospective purchasers or, in the last year of the Term, to prospective tenants. Landlord shall use good faith, reasonable efforts to limit interference with Tenant's business operations and use and occupancy of the Premises.

19. Holding Over. If Tenant remains in possession of the Premises after expiration or early termination of the Term, (i) Base Rent shall remain unchanged for the first 30 days of the holdover, (ii) from the 31st through the 60th day of the holdover, Tenant shall pay[* * *] percent ([* * *]%) of Base Rent for such month, (iii) from the 61ststst through the 90th day of the holdover, Tenant shall pay [* * *] percent ([* * *]%) of Base Rent for such month, and after the ninety (90) days of holdover, such holdover shall be as a tenant at sufferance and not as a tenant at will, and the Base Rent shall be [* * *] percent ([* * *]%) of the amount in effect at the end of the Term. Further, in the event Tenant remains in possession of the Premises for more than thirty (30) days after the expiration of the Term, Tenant shall also be responsible for and pay all actual damages sustained by Landlord by reason of Tenant's remaining in possession. In no event shall the collection or payment of Base Rent during such holdover period cause Tenant to be or be deemed a tenant at will. Should Tenant fail to so vacate the Premises upon the end of the term, Tenant shall be subject to dispossession without further notice, by summary dispossessory proceedings, in addition to any and all other remedies to which Landlord may be entitled by law or under this Lease. No holding over by Tenant without the express written consent of Landlord shall operate to extend the Term of this Lease.

20. Decommissioning. At least sixty (60) days prior to Tenant's surrender of possession of any part of the Premises, Tenant shall provide Landlord with (a) a facility decommissioning and Hazardous Materials closure plan for the Premises (collectively, "**Decommissioning Plan**") prepared by an independent third party reasonably acceptable to Landlord, and (b) commercially reasonable written evidence of all appropriate governmental releases obtained by Tenant in accordance with applicable Environmental Laws, including requirements pertaining to the surrender of the Premises (the "**Closure Report**"). Tenant shall remain responsible after the surrender of the Premises for the remediation of any recognized environmental conditions set forth in the Decommissioning Plan and caused by Tenant or any Tenant Agents and compliance with any recommendations set forth in the Decommissioning Plan. Tenant shall, upon the expiration or earlier termination of this Lease, furnish to Landlord commercially reasonable evidence that Tenant has closed all governmental permits and licenses, if any, issued in connection with Tenant's or Tenant Agents' activities at the Premises.

21. Notices. Subject to Section 18, Any notice given pursuant to this Lease must be in writing and simultaneously sent by email and by certified mail, return receipt requested, or reputable overnight courier to:

Landlord: Becton Dickinson Infusion Therapy Systems Inc.
1 Becton Drive, MC 112
Franklin Lakes, New Jersey 07417
Attention: Real Estate Manager, Americas

Email: Lauren.Goldrick@bd.com

with copies to: Becton, Dickinson and Company
1 Becton Drive
Franklin Lakes, New Jersey 07417
Attention:
Law Group
Email: Kristine.Rocco@bd.com

Tenant: Embecta Corporation
1329 West Highway 6
Suite B
Holdrege, NE 68949
Attn: Kevin Watts
Email: Kevin_Watts2@bd.com
Attn: Carol Davis
Email: Carol.Davis@bd.com

with copies to: Embecta Corp.
300 Kimball Drive
Parsippany, New Jersey 07054
Attn: Justin Director
Email: Justin_Director@bd.com

[* * *] = [CONFIDENTIAL PORTION HAS BEEN OMITTED BECAUSE IT (I) IS NOT MATERIAL AND (II) WOULD BE COMPETITIVELY HARMFUL IF PUBLICLY DISCLOSED.

Either party may change its address for notices under this Lease by written notice properly delivered to the other party as provided in this Section 21. Any notice sent in the manner set forth above shall be deemed delivered for all purposes hereunder on the day said notice is deposited in the mail or with the courier.

22. Exterior Signs. Subject to the terms and conditions of this Lease, Tenant shall have the right to erect at Tenant's sole cost and expense Tenant's customary identification sign on the front entrance of the Premises. This sign shall not be other than a customary trade sign, professionally prepared and identifying the business of Tenant. Tenant shall not paint or deface the exterior walls of the Building and Tenant shall not use any adhesive or similar type fasteners for any signs Tenant is permitted to install pursuant to this Lease. All signage must be approved in writing in advance by Landlord (such approval shall not be unreasonably withheld, conditioned or delayed), and such signage shall, at all times, be subject to and in conformity with: (a) all applicable laws within the jurisdiction having control over the Premises, (b) all applicable zoning ordinances and building restrictions, and (c) all applicable covenants of record. Landlord may require, in its sole discretion, a scaled drawing provided by Tenant of such proposed signage prior to Landlord's approval of the same. In the event a sign is erected by Tenant without Landlord's consent, Landlord shall have the right to remove said sign and charge the cost of such removal to Tenant as additional rent under this Lease. In the event Landlord implements a program for directional or wayfinding signage for the Property, Landlord shall include Tenant's signage as part of such program. In no event shall Tenant utilize any portable or vehicular signs at the Premises. On or before the expiration or prior termination of this Lease Tenant shall, at its sole cost and expense, remove any signage erected, and shall repair any damage or disfigurement, and close any holes, caused by such removal.

23. Estoppel Certificates; Financial Statements. Tenant agrees, from time to time, within ten (10) Business Days after written request from Landlord, to execute and deliver to Landlord, or Landlord's designee, an estoppel certificate, stating that this Lease is in full force and effect, the date to which Base Rent has been paid, to the actual knowledge of Tenant, whether Landlord is or is not in default under this Lease (or specifying in detail the nature of Landlord's default), the expiration date of this Lease and such other matters pertaining to this Lease as may be reasonably requested. In addition, if at any time Tenant or Tenant's parent entity is not a company listed with a public stock exchange, and Landlord, any superior lessor or any holder of a mortgage on the fee or leasehold estate requests a copy of Tenant's current financial statement, Tenant agrees to furnish a copy certified by a duly authorized officer of Tenant within ten (10) Business Days after written request to Tenant.

24. Brokerage. Each of Landlord and Tenant represents and warrants to the other that it has dealt with no real estate broker, agent or finder in connection with this Lease and that no broker is entitled to any commission on account of this Lease. Each party covenants and agrees to indemnify and hold the other harmless from any and all loss, liability, damage, claim, judgment, cost and expense (including without limitation reasonable attorneys' fees and litigation costs) that may be incurred or suffered by the other to the extent caused by any claim for any fees, commission or similar compensation with respect to this Lease, made by any broker, agent or finder claiming by, through or under the indemnifying party, whether or not such claim is meritorious.

25. Executive Order No. 13224. Each of the parties hereto warrant and represents to the other that (a) the name of the party used in this Lease is the party's lawful, true, and correct name; (b) the party is not listed on the Specially Designated Nationals and Blocked Persons List maintained by the Office of Foreign Asset Control, Department of the Treasury pursuant to the requirements of Executive Order No. 13224, 66 Fed. Reg. 49079 (September 25, 2001) (the "**List**"); and (c) unless publicly traded (or owned by a publicly traded company), the party is not owned or controlled by, nor acts for or on behalf of, any individual or legal entity on the List. Each of the parties hereto agrees that in the event at any time such warranties and representations are not true and correct, the other party may, in addition to any other remedies provided in this Lease, terminate this Lease, whereupon neither party shall have any further obligation under this Lease.

26. Subordination. Tenant's rights under this Lease shall always be subject and subordinate to the lien of any bona fide mortgage which is now, or may hereafter be, placed upon the Premises, Property or Landlord's rights hereunder. Tenant agrees to execute and deliver such documentation as may be required to evidence such subordination within ten (10) Business Days of receipt of a request for same. Tenant agrees to send all Base Rent and any other payments due hereunder and/or notices to any recipient(s) hereafter designated by Landlord, including its lender (or, with respect to Base Rent and any other payments due hereunder, to an account controlled by such lender). Notwithstanding the foregoing, Tenant agrees that any holder of such mortgage (the "**Superior Mortgagee**") may elect in writing at any time that all (or any part, as Superior Mortgagee designates) of the right, title, and interest of such Superior Mortgagee shall be subordinate to this Lease and Tenant's rights and claims under this Lease (a "**Subordination Election**"). Any Subordination Election shall become effective when a copy or original of it is either delivered to Tenant or recorded. Such Superior Mortgagee's right, title, and interest in the Premises shall then become subordinate to the Lease, whether the Lease is dated before or after the date of such Superior Mortgagee's interest in the Premises, to the extent set forth in the Subordination Election. Tenant shall, in the event any proceedings are brought for the foreclosure of, or in the event of exercise of the power of sale under any mortgage placed upon the Premises, attorn to any mortgagee or the purchaser upon any such foreclosure or sale and recognize such mortgagee or purchaser as Landlord under this Lease and Tenant agrees to execute and deliver commercially reasonable documentation as may be reasonably required to evidence such attornment within ten (10) days of receipt of a request for same. Notwithstanding the foregoing in this Section 26, Tenant's agreement to subordinate this Lease and its rights hereunder as to any current or future mortgage is conditioned upon Landlord's (or any successor in interest) delivery to Tenant of a recordable agreement on any future mortgagee's standard form or in form and substance reasonably acceptable to Tenant, Landlord and such superior mortgagee, by which such superior mortgagee shall agree not to disturb Tenant's possession and occupancy of the Premises or join Tenant in any such action as a party defendant, unless necessitated by law, so long as Tenant is not in default under this Lease.

27. Exculpation. ANY MONEY JUDGMENT AGAINST LANDLORD SHALL BE SATISFIED ONLY OUT OF THE RIGHT AND LEASEHOLD ESTATE INTEREST OF LANDLORD IN THE BUILDING AND THE PROCEEDS THEREOF, AND IN NO EVENT SHALL TENANT HAVE THE RIGHT TO LEVY EXECUTION AGAINST ANY PROPERTY OF LANDLORD OTHER THAN ITS INTEREST IN THE BUILDING AND THE PROCEEDS THEREOF.

28. Quiet Enjoyment; Access to Premises. Landlord covenants that Tenant upon keeping and performing each and every covenant, agreement, term, provision and condition herein contained on the part and on behalf of Tenant to be kept and performed, shall quietly enjoy the Demised Premises without disturbance by Landlord or by any other person lawfully claiming by, through or under Landlord subject to the covenants, agreements, terms, provisions and conditions of this Lease and the effect of the application of same.

29. Miscellaneous. No termination of this Lease prior to the normal ending thereof, by lapse of time or otherwise, shall affect Landlord's right to collect Base Rent or additional rent for the period prior to termination thereof. All rights, powers and privileges conferred under this Lease upon parties hereto shall be cumulative but not restrictive to those given by law. The failure of either party to exercise any power given to it hereunder, or to insist upon strict performance of any one or more of the obligations under this Lease, or to exercise any election contained in this Lease, shall not be construed as a waiver or relinquishment of the right to demand strict compliance with the terms hereof for the future performance of the terms and conditions of this Lease or of the right to exercise such election. The receipt and acceptance by Landlord of Base Rent or additional rent with knowledge of breach by Tenant of any obligation under this Lease shall not be deemed a waiver of such breach. This Lease shall be governed by the laws of the State of Nebraska. "**Landlord**" as used in this Lease shall include Landlord, its heirs, representatives, assigns, and successors in interest to Landlord's interest(s) in and to this Lease and/or to the Premises. In the event that any court of competent jurisdiction shall determine that any provision of this Lease is invalid, such determination shall not affect the validity of any of its other provisions, which shall remain in full force and effect and which shall be construed as to be valid under applicable law. In no event shall either party be liable or responsible for consequential, special, indirect, incidental, exemplary or punitive damages arising out of this Lease. Landlord and Tenant hereby waive trial by jury in any action or proceeding arising under this Lease. This Lease contains the entire agreement of the parties hereto, and no representations, inducements, promises or agreements, oral or otherwise, between the parties, not embodied in this Lease, shall be of any force or effect. This Lease may only be amended in a writing signed by both parties. This Lease may be executed in multiple counterparts and/or electronically, each of which shall be deemed an original and all of which together shall constitute a single instrument.

[Signatures Appear on the Following Page]

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals, effective the day and year first above written.

LANDLORD:

BECTON DICKINSON INFUSION THERAPY SYSTEMS INC., a Delaware corporation

By: /s/ Gary DeFazio
Name: Gary DeFazio
Its: Vice President and Secretary

TENANT:

EMBECTA CORP., a Delaware corporation

By: /s/ Jacob Elguicze
Name: Jacob Elguicze
Its: Chief Financial Officer

LOGISTICS SERVICES AGREEMENT

THIS LOGISTICS SERVICES AGREEMENT (this "Agreement") is dated as of January 1, 2022, by and between:

(A) EMBECTA CORP., a Delaware corporation ("Service Recipient"); and

(B) BECTON, DICKINSON AND COMPANY, a company incorporated in New Jersey ("Service Provider").

Service Recipient and Service Provider may each be referred to herein individually as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, in connection with the transactions contemplated by the Separation and Distribution Agreement, the Parties contemplate that during the Term (as defined herein), Service Provider will provide certain Services (as defined herein) to Service Recipient (and/or its Affiliates (as defined herein)), at Service Recipient's direction, to support certain commercial operations of the SpinCo Business as it relates to the Products (as defined herein) until order-to-cash processes and other logistics services of the SpinCo Business are migrated to an independent infrastructure of Service Recipient in accordance with the terms and conditions set forth herein (the "Purpose").

NOW, THEREFORE, the Parties agree as follows:

1. DEFINITIONS

For the purpose of this Agreement, the following capitalized terms shall have the following meanings. Capitalized terms which are used but not defined herein shall have the meanings ascribed to such terms in the Separation and Distribution Agreement.

"Additional Services" shall have the meaning set forth in Section 4.6.

"Administrative Fee" shall have the meaning set forth in Section 11.2.1.

"Affiliate" of any Person shall mean any Person directly or indirectly controlling, controlled by, or under common control with, such Person; provided, however, that, for the purposes of this definition, "control" (including, with correlative meanings, the terms "controlled by" and "under common control with"), as used with respect to any 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, by contract, or otherwise.

"Agreement" shall have the meaning set forth in the Preamble and shall include the Services Schedule included by mutual agreement of the Parties herein (whether in the initial form attached hereto as of the Commencement Date and/or Region Effective Date or subsequently amended by written agreement of the Parties pursuant to the terms of this Agreement).

"Ancillary Agreements" has the meaning set forth in the Separation and Distribution Agreement (but, for the avoidance of doubt, includes the Separation and Distribution Agreement).

"Claim" shall have the meaning set forth in Section 18.4.

"Commencement Date" shall mean the date at the top of this Agreement.

"Confidential Information" shall have the meaning set forth in Section 22.1.

"Contract Manufacturing Agreements" shall have the meaning given to it in the Separation and Distribution Agreement.

"Customer Agreements" shall have the meaning set forth in Section 8.1.

"Data Protection Laws" means: (a) the Data Protection Act 2018; (b) the General Data Protection Regulation (EU) 2016/679 ("GDPR"); (c) the GDPR as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018, and as amended by the Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019 ("UK GDPR"); (d) the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2003/2426), and (e) all United Kingdom and European Union (with direct effect) laws and regulations relating to processing of personal data and privacy together with the corresponding laws of any other applicable jurisdiction in which the Services are provided or received.

"Dispute" shall have the meaning set forth in Section 7.1.

"Distribution Date" shall have the meaning given to it in the Separation and Distribution Agreement.

"Excluded Services" means those applications, services, functions and reports specifically set forth in Schedule 3, except in each case aspects of such applications, services, functions and reports, if any, to the extent specifically set forth in the Services Schedule as of the date the Separation and Distribution Agreement is first executed by the parties thereto or in any other Ancillary Agreement.

"Factoring Agreement" shall have the meaning set forth in Section 11.1.1.

"Factoring Fee" shall have the meaning set forth in the Factoring Agreement.

"Factoring Region" shall mean each Region that is not a Receivables Servicing Region.

"Field Action" shall have the meaning set forth in Section 10.1.

"Force Majeure Event" shall have the meaning set forth in Section 23.1.

"Governmental Authority" shall have the meaning set forth in the Separation and Distribution Agreement.

"Guardrail" shall have the meaning set forth in Section 12.1.

"Interest Payment" shall have the meaning set forth in Section 11.3.1

"Losses" shall have the meaning set forth in the Separation and Distribution Agreement.

"Net Revenue" shall have the meaning set forth in Section 11.2.1.

"Non-Payment Notice" shall have the meaning set forth in Section 11.3.1.

"Party" and "Parties" shall have the meaning set forth in the Preamble.

"Person" means any individual, corporation (including any non-profit corporation), general partnership, limited partnership, limited liability partnership, joint venture, estate, trust or company (including any limited liability company or joint stock company) or other similar entity or Governmental Authority.

"Pre-Effective Date Service Form" shall have the meaning set forth in Section 4.4.1.

"Product(s)" shall mean the products as described in Schedule 7.

"Purpose" shall have the meaning set forth in the Recitals.

"Receivables Servicing Agreement" shall have the meaning set forth in Section 11.1.2.

"Receivables Servicing Region" shall mean each of the "Subject Regions," as defined in each Receivables Servicing Agreement.

"Region" shall mean each country or group of countries identified in Schedule 1, and for the purpose of any early termination in accordance with Section 20 "Region" shall mean each of North America, LATAM, EMEA, and CASAJ (as applicable).

"Region Effective Date" means the date that this Agreement becomes effective for each Region, as provided in Schedule 1, or as otherwise notified by Service Provider from time to time.

"Regional Agreement" shall have the meaning set forth in Section 11.6.

"Reimbursable Costs" shall have the meaning set forth in Section 11.2.2.

"Representative(s)" shall mean (a) with respect to Service Provider, Service Provider, its Affiliates and each of their respective officers, directors, employees, consultants, contractors and agents, in each case to the extent designated by Service Provider to provide Services under this Agreement, and (b) with respect to Service Recipient, Service Recipient, its Affiliates and each of

their respective officers, directors, employees, consultants, contractors and agents, in each case to the extent authorized to receive Services or to perform any obligations on behalf of Service Recipient pursuant to this Agreement.

"Separate LSA Schedule" means the separate document setting out the detailed schedule of Services to be provided pursuant to this Agreement.

"Separation and Distribution Agreement" shall mean that certain Separation and Distribution Agreement to be entered into by and between Service Recipient and Service Provider.

"Service Provider" shall have the meaning set forth in the Preamble.

"Service Provider ERP System" means those information technology systems and platforms selected by Service Provider, in its sole discretion acting reasonably for use in connection with the performance of Services.

"Service Provider Subsidiary" shall mean each Service Provider subsidiary as set forth in Schedule 1.

"Service Recipient" shall have the meaning set forth in the Preamble.

"Service Recipient Subsidiary" shall mean each Service Recipient subsidiary as set forth in Schedule 1.

"Services" shall mean all services to be provided to Service Recipient as described in the Services Schedule and the Separate LSA Schedule or as added to the Services Schedule and Separate LSA Schedule pursuant to Section 4.6.

"Services Schedule" shall mean the schedule attached hereto as Schedule 2.

"Servicing Fee" shall have the meaning, with respect to each Receivables Servicing Region, set forth in the applicable Receivables Servicing Agreement.

"Set-Up Costs" shall have the meaning set forth in Section 4.1.

"SpinCo Business" shall have the meaning given to it in the Separation and Distribution Agreement.

"Subcontractor" shall have the meaning set forth in Section 14.1.

"Term" shall have the meaning set forth in Section 3.1.

"Third Party" means any Person other than Service Provider, Service Recipient or their respective Affiliates.

"Transition Plans" shall have the meaning set forth in Section 3.2.2.

"Withholding Agent" shall have the meaning set forth in Section 11.5.2.

2. APPOINTMENT

2.1 Subject to the terms and conditions of this Agreement, Service Recipient, and the Service Recipient Subsidiaries, hereby appoint with respect to each Service, Service Provider or the applicable Service Provider Subsidiary, in each case as their services provider with respect to such Services for the Products in the applicable Region, in each case as described in Schedule 1 and on the terms and conditions set forth in this Agreement.

3. TERM

3.1 This Agreement shall commence on the Commencement Date and terminate on the second (2nd) anniversary of the Commencement Date (the "Term") unless earlier terminated under Section 20.

3.2 Transition Plan.

3.2.1 Each Party shall use diligent, concerted and commercially reasonable efforts to cause Service Recipient to transition off of the provision of the Services in each Region as promptly as possible, but in no event later than the end of the Term. The Parties shall transition responsibility for the performance of Services to Service Recipient in a manner that minimizes, to the extent reasonably possible, disruption to the SpinCo Business and the continuing operations of Service Provider and its relevant Affiliates, including in relation to orders for Products placed by customers up to the effective date of the expiration or termination of this Agreement. For the avoidance of doubt Service Recipient shall be primarily responsible with respect to transitioning off of the provision of Services in each Region. Service Provider shall have no obligation to perform (or procure that its Affiliates perform) any Services following the Term. The Parties acknowledge and agree that time is of the essence with respect to the foregoing in this Section 3.2.1.

3.2.2 In furtherance of Section 3.2.1, Service Recipient shall use commercially reasonable efforts to set forth the steps required to transfer the Services in each Region to Service Recipient or a successor provider in a written transition plan or plans with respect to such Region (the "Transition Plans"). The Services Recipient shall use its commercially reasonable efforts to develop the Transition Plans within six (6) months after the Distribution Date and Service Provider shall reasonably consult with Service Recipient in preparation thereof. In furtherance of the foregoing, Service Provider shall provide to Service Recipient information reasonably requested by Service Recipient that is necessary for Service Recipient to develop the Transition Plans, and the Parties shall reasonably cooperate with respect to the development of the Transition Plans.

3.2.3 Without limitation to and subject to Section 3.2.2, the Parties will reasonably cooperate in an effort to agree in writing with respect to reasonable Transition Plans, and if the Parties agree in writing to such Transition Plans, then the Parties shall each use commercially reasonable efforts to undertake the activities expressly delegated to and agreed to by such Party in such Transition Plans. To the extent support is required by the Service Provider in a material respect for the purposes of implementation of the Transition Plan, Service Provider will be reimbursed for those services at an agreed upon hourly rate, unless otherwise provided for in such Transition Plan.

3.2.4 Service Provider shall reasonably cooperate with Service Recipient with respect to efforts by Service Recipient to obtain new or replacement contracts with respect to Services as it concerns Third Party vendors with which Service Provider has commercial relationships with respect to such Services; provided, that for the avoidance of doubt Service Recipient shall be primarily responsible with respect to obtaining such new or replacement contracts.

4. DESCRIPTION OF SERVICES

4.1 Subject to the terms and conditions of this Agreement, Service Provider will use commercially reasonable efforts to provide or cause its Affiliates to provide such Services to Service Recipient and its Affiliates during the Term. Each Service shall be provided and accepted in accordance with the terms, limitations and conditions set forth herein and in the Services Schedule. In addition, with respect to each Service, any set up charge or any other similar costs reasonably necessary for the commencement of such Service in accordance with the terms hereof ("Set-Up Costs") shall be the responsibility of the Service Recipient, except as otherwise expressly provided herein, and such charges and costs shall be deemed to be "Reimbursable Costs" hereunder and paid to Service Provider in accordance with Section 11.3.

4.2 Schedules and Precedence. This Agreement shall govern the provision of Services. Except with respect to any limitations on the Services set forth in this Agreement, if there is any inconsistency between the terms of the Services Schedule and the terms of the main body of this Agreement (i) the terms of the Services Schedule shall govern with respect to the provision of a specific Service (including pricing, term, technical or operational matters) and (ii) the main body of this Agreement shall govern for legal terms and conditions.

4.3 Information. Unless otherwise mutually agreed by the Parties, the Services Schedule and any amendments thereto shall set forth, at a minimum, the following information for each listed Service:

(a) a description of the Service to be provided; and

(b) any other terms uniquely applicable to such Service.

4.4 Nature of Services.

4.4.1 Unless otherwise expressly set forth in the Services Schedule, for each Region the Service Provider shall perform the Services in substantially the same form and at a relative level of service that such Services were performed internally by or on behalf of Service Provider (or for Services provided by a Third Party, if applicable, the form consistent with the requirements of the Third Party contract under which such Service was last provided before the Region Effective Date by a Third Party) with respect to the SpinCo Business in the twelve (12) months prior to the Region Effective Date to the extent

transacted through the Service Provider ERP System, in each case with respect to, without limitation, quality, availability and volume (as may be increased to take into account the hiring of employees to operate the SpinCo Business as of the Region Effective Date and increases in volume reasonably attributable to the organic growth of the SpinCo Business following the Region Effective Date, and subject to any increase in fees by Service Provider to account therefor); provided, however, that such performance shall at a minimum be at no lesser standard of quality generally consistent with the services or arrangements Service Provider provides to its own Affiliates (collectively, the "Pre-Effective Date Service Form"). Notwithstanding the foregoing, Service Provider may change a Pre-Effective Date Service Form solely to the extent (a) any change in nature, scope or performance levels is agreed in writing by the Parties from time-to-time during the Term of this Agreement, (b) of any restrictions imposed on Service Provider by applicable Law or regulation, in which case any such change shall be to the minimum extent necessary, as determined by Service Provider in its reasonable discretion, such that Service Provider can provide such Service in compliance with applicable Law or regulation, (c) any changes in the nature, scope and performance levels of such Service are necessitated by the Separation and Distribution (as both terms are defined in the Separation and Distribution Agreement), or the organic growth of the SpinCo Business during the Term, (d) any modification in process for providing Services are necessitated by the extraction of the SpinCo Business from Service Provider's continuing operations and (e) required by any contractual obligations owed by Service Provider to any Third Party(ies) with respect to Services provided by, from or through such Third Party(ies) hereunder. Regarding the changes described in the previous sentence, Service Provider shall implement such changes in a commercially reasonable manner that where practical is consistent with the practices performed internally by or on behalf of Service Provider with respect to the SpinCo Business in the twelve (12) months prior to the Region Effective Date. For the avoidance of doubt, in providing the Services, Service Provider may use any information systems, hardware, software, processes and procedures it deems necessary or desirable in its reasonable discretion, provided that (i) Service Provider shall provide notice to Service Recipient with respect to material changes by Service Provider to any such systems, hardware, software, processes and procedures, if any, that are made solely with respect to Service Recipient (and not similar services for itself or its Affiliates), in which case, Service Provider shall use commercially reasonable efforts to make such changes in a manner that does not cause Service Recipient to incur increased costs hereunder and shall notify Service Recipient in advance if such changes will result in a material increase in costs, and (ii) any changes by Service Provider to any such systems, hardware, software, processes and procedures, will not be made in a manner that adversely affects in any material respect the ability of Service Provider to comply with its obligations to provide the Services in the Pre-Effective Date Service Form to the extent required above in this Section 4.4.1.

4.4.2 To the extent Service Provider fails to provide Services in accordance with the terms of this Agreement, Service Provider shall as soon as practicable correct the non-conforming portion of such Services such that it can provide such Service in the Pre-Effective Date Service Form to the extent required by Section 4.4.1, in each case at no extra charge or cost to Service Recipient.

4.4.3 Service Provider will use commercially reasonable efforts in the performance of the Services and its duties and obligations hereunder with the same degree of care, skill and prudence customarily exercised when engaging in similar activities for itself and, without limitation, Service Provider will use commercially reasonable efforts to provide the Services in accordance with the service standards set forth in this Section 4.4.

4.4.4 WITHOUT LIMITING THE OBLIGATIONS SET OUT IN SECTION 4.4.1, AND WITHOUT LIMITING ANY REPRESENTATION OR WARRANTY IN THE SEPARATION AND DISTRIBUTION AGREEMENT, (i) ALL SERVICES PERFORMED AND THE SERVICE PROVIDER ERP SYSTEM PROVIDED BY SERVICE PROVIDER HEREUNDER ARE PERFORMED, PROVIDED, AND MADE AVAILABLE ON AN "AS IS" AND "WITH ALL FAULTS" BASIS, AND (ii) SERVICE PROVIDER DOES NOT MAKE, AND HEREBY DISCLAIMS, ANY AND ALL OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUIET ENJOYMENT, NONINFRINGEMENT AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE.

4.5 Service Limitations.

4.5.1 Notwithstanding any provision of this Agreement to the contrary:

(a) except as and to the extent necessary for the receipt of any Services by Service Recipient and any arrangements provided under and subject to the other Ancillary Agreements, Service Provider shall have no obligation to provide Service Recipient with access to or use of any Service Provider information technology systems, information technology, platforms, networks, applications, software databases or computer hardware;

(b) Service Provider shall have no obligation to provide Service Recipient with any Excluded Services and Service Provider shall not be obligated to provide and shall not be deemed to be providing any advisory services (including advice with respect to legal, financial, accounting, insurance, regulatory or tax matters) to Service Recipient or any of its Representatives as part of or in connection with the Services or otherwise;

(c) Service Provider shall have no obligation, unless to the extent necessary to provide the Services, and without limiting, for clarity, Section 10.1, to prepare or deliver any notification or report to any Governmental Authority or other Person on behalf of Service Recipient or any of its Representatives; and

(d) in no event shall Service Provider or its Affiliates have any obligation to favor Service Recipient or any of its Affiliates' operation of the SpinCo Business over its own business operations or those of its Affiliates.

4.5.2 Notwithstanding any provision of this Agreement to the contrary, Service Provider shall not be required to:

(a) perform any Service or provide access to or use of any part of the Service Provider ERP System in any manner that violates or contravenes any restrictions imposed on Service Provider by applicable Law or regulation;

(b) perform any Service or provide access to or use of any part of the Service Provider ERP System in any manner that breaches or contravenes any contractual obligations owed by Service Provider to any Third Party(ies). Service Provider will provide written notice to Service Recipient to the extent any such Third Party contractual obligation will materially impact the provision of applicable Services hereunder (or change the cost thereof);

(c) hire any additional employees, maintain the employment of any one or more specific employees, or purchase, lease or license any additional equipment, software (including additional seats or instances under existing software license agreements) or other resources (in each case in this Section 4.5.2(c) subject to Service Provider's compliance with its obligations to provide the applicable Services in the Pre-Effective Date Service Form to the extent required by Section 4.4.1); or

(d) bear or pay any costs related to the conversion of the Service Recipient's data at the Service Recipient's request without limiting, for clarity, Sections 4.4.1 and 4.7.

4.5.3 Service Provider shall have no obligation to provide data migration support including any data extraction, data cleansing or data insertion, with respect to historical or transactional data except as and to the extent set forth in this Section 4.5.3 or as and to the extent otherwise expressly set forth herein or in another Ancillary Agreement. Notwithstanding the foregoing, Service Provider shall (i) provide master data (including product master data, vendor master data, customer master data, materials master data, and employee master data) in the form and format that it exists on the Service Provider ERP System (or in another format readily convertible by Service Provider if reasonably requested by Service Recipient and agreed with Service Provider) related to the SpinCo Business and reasonably necessary for Service Recipient to set up its own systems with such data for purposes of operating the SpinCo Business, (ii) provide reasonable access to Service Recipient with respect to reasonable and specific requests for historical data and reports (including historical and legacy contracts and legal claims matters) to the extent related to the SpinCo Business, if such data and reports are maintained in a form and manner that access can be readily provided by Service Provider, and (iii) consider in good faith reasonable and specific requests by Service Recipient with respect to other data, if any, reasonably necessary for use by Service Recipient in the SpinCo Business at Service Recipient's cost.

4.5.4 Service Provider shall have the right to shut down temporarily for maintenance or similar purposes the operation of the Service Provider ERP System or any other facilities or systems of Service Provider or its Affiliates providing any Service whenever in Service Provider's reasonable judgment such action is necessary or advisable for general maintenance or emergency purposes; provided that without limiting the immediately following sentence, Service Provider will schedule non-emergency general maintenance impacting the Services so as not to materially disrupt the operation of the SpinCo Business by Service Recipient. Service Provider will give Service Recipient reasonable advance notice of any such shut down for general maintenance purposes or other planned shut down.

4.5.5 Service Provider will be excused from performing any portion of a Service under this Agreement to the extent that, and solely for so long as, it is actually prevented from performing such portion of such Service as a result of Service Recipient's or any of its Representatives' failure to comply with Service Recipient's obligations set forth in Section 5. The Parties will use commercially reasonable efforts to cooperate to agree upon steps to be taken by Service Recipient to address and mitigate such adverse effect, and to the extent reasonably practicable the Services will resume in accordance with the terms hereof upon such mitigation.

4.6 Additional Services. Service Recipient may, within ninety (90) days following the Distribution Date, identify in writing to Service Provider additional third party logistics services related to the Purpose that (i) Service Provider and its Affiliates (other than Service Recipient and its Affiliates) have been providing or have provided in such Region in connection with the ordinary course of operation of the SpinCo Business in the twelve (12) months prior to the Region Effective Date or otherwise are necessary to physically and logically separate the operations and the systems of the SpinCo Business from Service Provider, (ii) are not described in the Services Schedule and are not, for clarity, Excluded Services hereunder or described in the Transition Services Agreement, and are not otherwise capable of constituting Services, Additional Services or Excluded Services, under the Transition Services Agreement and (iii) are necessary for the Service Recipient and its Affiliates to continue to conduct the SpinCo Business from and after the Region Effective Date (collectively, except for the Excluded Services, the "Additional Services"). If Service Provider has the necessary assets, rights and resources to reasonably provide such Additional Services, and Service Recipient is not reasonably in a position to provide such Additional Services or obtain such Additional Services from a Third Party on the same time frame as such services would be available from Service Provider, then with the written approval of Service Provider, not to be unreasonably withheld, conditioned or delayed, the Parties shall execute a written amendment to the then-current Services Schedule to reflect such Additional Service with respect to the applicable Region(s) and, without limiting Section 11.2.2, associated increase in the Administrative Fee, as applicable, terms and conditions (which shall be reasonably agreed to by the Parties and otherwise shall be consistent with all terms, conditions and pricing applicable to the other Services hereunder, as applicable), and such Additional Service shall then be deemed a "Service" hereunder for the relevant Region(s).

4.7 Modifications. Subject in all cases to the provision of the Services in accordance with the service standards set forth in Section 4.4, the Service Provider ERP System or other resources used by Service Provider to provide the Services may be changed, altered or modified from time to time at Service Provider's reasonable discretion. Without limiting the foregoing, Service Provider may modify a Service to the extent the same modification (including with respect to the cost, scope, nature, performance levels, timing and quality of such Service) is made with respect to Service Provider's provision of such Service to itself and its Affiliates, as applicable. Service

Provider shall inform Service Recipient reasonably in advance in writing of (a) any changes to the Services pursuant to this Section 4.7 and (b) any material changes to the Service Provider ERP System or other resources used to provide the Services that may affect Service Recipient's operation of the SpinCo Business with respect to the Purpose. Subject to the preceding provisions of this Section 4.7, any change in the scope, nature, performance levels or duration of any Service described in or other amendment to the Services Schedule must be agreed by the Parties in writing and signed by the Parties.

4.8 Use of Services. For each Region, Service Provider shall not be required to provide the Services to any Person other than Service Recipient and its Affiliates, and shall not be required to provide Services in connection with anything other than the Service Recipient's or its Affiliates' use or operation of the SpinCo Business with respect to the Purpose after the Region Effective Date. Service Recipient shall not, and shall not permit any of its Representatives to, resell any Services to any Third Party or permit the use of any Services by any Third Party.

5. OBLIGATIONS OF SERVICE PROVIDER

5.1 Responsibilities of Service Provider.

5.1.1 Service Provider shall maintain sufficient resources to perform its obligations hereunder in accordance with the terms hereof.

5.1.2 Without limiting any of its rights or obligations set forth in this Agreement Service Provider shall:

(a) provide technical assistance and training to Service Recipient personnel to the extent specified in the Services Schedule.

(b) notify Service Recipient of problems with the Service Recipient's work environment that might interfere with the provision of Services hereunder.

(c) perform its obligations under this Agreement in a manner consistent with all legal requirements applicable to Service Provider in its capacity as a provider of Services to the Service Recipient.

5.1.3 Service Provider shall provide Service Recipient and its Representatives with information and documentation reasonably requested by Service Recipient that is reasonably necessary for Service Recipient to receive Services hereunder, to perform its obligations hereunder and to transition off the Services in accordance with Section 3.2, subject in each case to reasonable confidentiality, security and privacy controls, policies and procedures imposed by Service Provider.

5.1.4 Service Provider shall, during normal business hours and with reasonable prior notice, make available, as reasonably requested by Service Recipient, reasonable access to personnel and provide timely decisions reasonably requested by Service Recipient in order that Service Recipient may timely transition off the Services in accordance with Section 3.2.

5.1.5 In performing its obligations under this Agreement, Service Provider shall comply with its obligations under the Data Protection Laws and shall not do or permit anything to be done which might cause or result in a breach by Service Recipient of the Data Protection Laws. If either Party concludes, at any time, that a data processing agreement is required in connection with the performance of any activities under this Agreement, it shall notify the other Party and the Parties shall agree and enter into reasonable terms in this respect.

6. OBLIGATIONS OF SERVICE RECIPIENT

6.1 Certain Service Recipient Responsibilities. Without limiting Section 6.2, the Service Recipient shall be responsible for and shall perform or cause its Affiliates to perform the activities set forth on Schedule 6. The Parties understand and agree that, notwithstanding anything to the contrary herein and without limiting Section 2, Service Provider's sole responsibility hereunder is to provide the Services hereunder on behalf of and for the benefit of Service Recipient, as set forth herein, in each case without limiting either Party's rights or obligations under the Separation and Distribution Agreement or any other Ancillary Agreement.

6.2 Other Responsibilities of Service Recipient.

6.2.1 With respect to the Purpose, following the relevant Region Effective Date, Service Recipient shall, for each Region, (i) exercise ultimate control over the operation of the SpinCo Business, except to the extent of the Services, and (ii) be solely responsible for the operation of the SpinCo Business in accordance with all applicable Laws and regulations, except to the extent of the Services (and without limiting the services provided under the Transition Services Agreement).

6.2.2 Service Recipient shall, during normal business hours (or as may otherwise be expressly required to deliver a Service) and with reasonable prior notice, provide Service Provider and its Representatives with access to its facilities as is reasonably necessary for Service Provider and its Representatives to perform the Services and provide Service Provider and its Representatives access to any systems or software applications that Service Provider and its Representatives are obligated to provide hereunder.

6.2.3 Service Recipient shall provide Service Provider and its Representatives with information and documentation reasonably requested by Service Provider that is reasonably necessary for Service Provider to perform the Services and provide access to the Service Provider ERP System it is obligated to provide hereunder, subject in each case to reasonable confidentiality, security and privacy controls, policies and procedures imposed by Service Recipient.

6.2.4 Service Recipient shall, during normal business hours and with reasonable prior notice, make available, as reasonably requested by Service Provider, reasonable access to personnel and provide timely decisions reasonably requested by Service Provider in order that Service Provider may perform its obligations hereunder.

6.2.5 Service Recipient acknowledges and agrees that certain of the Services to be provided hereunder were previously performed for Service Provider or its Affiliates by individuals who may no longer be employed by Service Provider or its Affiliates as a result of the Separation and Distribution and that the provision of the Services to Service Recipient may require Service Provider's reasonable access to, or support from, Service Recipient's relevant employees.

6.2.6 Except for Services and Service Provider ERP System expressly required to be provided by Service Provider under this Agreement, Service Recipient shall be solely responsible for: (a) the selection, acquisition and maintenance of any and all Third Party products or services used by Service Recipients; (b) all implementation, maintenance and support concerning such Third Party products and services; and (c) all costs associated with the activities described in clauses (a) and (b), above. Except as expressly set forth in this Agreement, Service Provider shall have no obligation to acquire, host, maintain or otherwise support any such Third Party products or services.

6.2.7 Service Recipient is and shall remain solely responsible for the content, accuracy and adequacy of all data that Service Recipient or its Representatives transmit or have transmitted to Service Provider for processing or use in connection with the performance of Services.

6.2.8 Service Recipient shall comply, and shall cause its Representatives to comply, with all applicable legal requirements in connection with their respective operations and obligations under this Agreement, including the receipt and use of the Services.

6.2.9 Without limiting the foregoing, with respect to the customer service and order management Services described in category (i) of Schedule 6, Service Recipient acknowledges and agrees that, at all times during the Term, (i) such activities shall be performed with respect to both the Products and products of Service Provider and its Affiliates; and (ii) in dealing with Service Recipient's customers, Service Recipient will not make any communication regarding customer service and order management for Service Provider products without Service Provider's approval.

6.2.10 Service Recipient shall maintain sufficient resources to perform its obligations hereunder in accordance with the terms hereof, including, for clarity, maintaining adequate staffing levels to perform the activities described in Section 6.2.9, including in accordance with the Pre-Effective Date Service Form applicable thereto.

6.2.11 Mutual Responsibilities. The Parties will reasonably cooperate with each other in all matters relating to the provision and receipt of Services. Such cooperation shall include:

(a) exchanging information relevant to the provision of Services hereunder;

(b) reasonable efforts to mitigate problems with the work environment interfering with the Services; and

(c) each Party requiring its personnel to obey any security regulations and other published policies of the other Party while on the other Party's premises which have been made available to the Party.

6.2.12 In performing its obligations under this Agreement, Service Recipient shall comply with its obligations under the Data Protection Laws and shall not do or permit anything to be done which might cause or result in a breach by Service Provider or its Affiliates of the Data Protection Laws.

7. DISPUTES

7.1 In the event of any controversy, dispute or claim (a "Dispute") arising out of or relating to any Party's rights or obligations under this Agreement (whether arising in contract, tort or otherwise), calculation or allocation of the costs of any Service or otherwise arising out of or relating in any way to this Agreement (including the interpretation or validity of this Agreement), such Dispute shall be resolved in accordance with the dispute resolution process referred to in Article VII of the Separation and Distribution Agreement.

7.2 In any Dispute regarding the amount of a fee, if such Dispute is finally resolved pursuant to the dispute resolution process set forth or referred to in Section 7.1 and it is determined that the fee that Service Provider has invoiced Service Recipient, and that Service Recipient has paid to Service Provider, is greater or less than the amount that the fee should have been, then (i) if it is determined that Service Recipient has overpaid the fee Service Provider shall within ten (10) calendar days after such determination reimburse Service Recipient an amount of cash equal to such overpayment, plus the Interest Payment, accruing from the date of payment by Service Recipient to the time of reimbursement by Service Provider; and (ii) if it is determined that Service Recipient has underpaid the fee Service Recipient shall within ten (10) calendar days after such determination reimburse Service Provider an amount of cash equal to such underpayment, plus the Interest Payment, accruing from the date such payment originally should have been made by Service Recipient to the time of payment by Service Recipient.

8. CUSTOMER AGREEMENTS

8.1 The Parties acknowledge and agree that there are and will continue during the Term to be, distribution and other contracts in place between Service Provider and certain Service Recipient customers that pre-date the Region Effective Date ("Customer Agreements") and that, for expediency and administrative convenience, the Parties have agreed not to amend those contracts to reflect the terms of this Agreement, but rather to address such issues as between themselves in this Agreement. Accordingly, Service Recipient hereby agrees that the terms set forth in each Customer Agreement shall be the terms under which Service Recipient provides the applicable Products and services related thereto to each such customer during the Term.

8.2 Following the Region Effective Date, for new and amended contracts with Service Recipient's customers with respect to any Products or under which any Services will be provided, Service Recipient will consult with Service Provider and the Parties will work together in good faith to determine what level of service can be provided by Service Provider and whether such service will have an effect on the fees under this Agreement, and Service Recipient shall ensure that any such contracts are consistent with the terms and conditions of this Agreement during the Term.

9. ACCESS TO FACILITIES

9.1 Access to Facilities. Prior to one Party allowing any of the other Party's Representatives ("Personnel") to enter onto any premises owned, controlled or operated by such Party, that Party may require such Personnel to enter into confidentiality agreements to protect its Confidential Information and contain provisions that are consistent with the provisions of Section 22 of this Agreement. Each Party shall cause all Personnel to comply with all reasonable instructions and policies of the other Party made available while at any premises owned, controlled or operated by such Party, and each Party shall have the right to remove any Personnel of the other Party from any such premises for failure to comply with this Agreement or any such instructions or policies. Notwithstanding the foregoing, this Section 9.1 shall not limit any access to premises provided under the Transition Services Agreement or any lease between Service Provider (or its Affiliates) and Service Recipient (or its Affiliates), in each case subject to the terms and conditions thereof.

10. FIELD ACTIONS; PRODUCT REGISTRATIONS

10.1 Field Actions. For each Region Service Recipient shall have the sole discretion and responsibility to effect and control any recall, withdrawal, or field correction (a "Field Action") with respect to any Product sold on or after the Region Effective Date. In connection with a Field Action, Service Provider (or such of its Affiliates that holds the product registration with respect to such Product at the time of such Field Action, as applicable) shall reasonably cooperate with responding to Service Recipient's requests for information or other assistance, and in otherwise effecting such Field Action, in each case at the Service Recipient's cost. Service Recipient shall consult with Service Provider before issuing any press release or otherwise making any public statement regarding any Field Action that references or implicates Service Provider or any of its Affiliates. Service Recipient shall be responsible for communicating with any Governmental Authorities in connection with a Field Action, and Service Provider (or such of its Affiliates that holds the product registration with respect to such Product at the time of such Field Action, as applicable) shall reasonably cooperate with Service Recipient to facilitate such communications (including by communicating directly with the applicable Governmental Authority to the extent so required). Service Recipient shall bear the costs and expenses to the extent incurred by it and by Service Provider or any of its Affiliates in connection with any such Field Action.

10.2 Product Registrations. Notwithstanding anything to the contrary herein, and, for clarity, without limiting the Transition Services Agreement, any obligations of Service Provider with respect to obtaining, maintaining, renewing or modifying product registrations shall be set out in the Transition Services Agreement.

10.3 New Branding. Any support for the set up of master data for new branding of Service Recipient or its Affiliates in the Service Provider ERP System with respect to any Products shall be agreed between the Parties in writing, and any such newly branded Products shall not constitute or be deemed to be "Products" hereunder unless and until Service Provider has approved the same in writing. For the avoidance of doubt, any new branding shall not apply to invoice forms and business stationery of Service Provider.

10.4 Service Provider shall continue to maintain a recovery plan to ensure the continuity of Services in case of natural disasters, serious weather conditions, power failures, fires, national emergencies, or any other catastrophic event that is consistent with the recovery plan that the Service Provider has in place with respect to the SpinCo Business in the twelve (12) months prior to the Region Effective Date.

11. FACTORING, FEES, REIMBURSABLE COSTS AND PAYMENT TERMS

11.1 Factoring and Receivables Servicing.

11.1.1 With respect to the Factoring Regions, the Parties agree to a factoring arrangement on the terms and conditions provided in the Factoring Agreement attached as Part I of Schedule 4 hereto (the "Factoring Agreement"). For clarity, invoicing and payment of the Factoring Fee are made under the Factoring Agreement.

11.1.2 With respect to the Receivables Servicing Regions, the Parties agree to a receivables servicing arrangement on the terms and conditions provided in the applicable Receivables Servicing Agreement attached as Part II of Schedule 4 hereto (the "Receivables Servicing Agreement"). For clarity, invoicing and payment of the applicable Servicing Fee are made under the applicable Receivables Servicing Agreement.

11.2 Administrative Fee and Reimbursable Costs.

11.2.1 Administrative Fee. Without limiting Section 11.1 or Service Recipient's payment obligations with respect to Reimbursable Costs under Section 11.2.2, Service Recipient shall pay Service Provider a monthly fee in an amount equal to one percent (1%) of Net Revenue (the "Administrative Fee"). As used herein, "Net Revenue" has the meaning set forth in Part I of Schedule 5. For clarity, Service Recipient, and only Service Recipient, has the right to set the price for the Products. For the avoidance of doubt, the Service Recipient shall not be charged by the Service Provider under this Agreement for any services or products that are charged to the Service Recipient under the Contract Manufacturing Agreements.

11.2.2 Reimbursable Costs. Without limiting Section 11.1 or Service Recipient's payment obligations with respect to the Administrative Fee under Section 11.2.1, Service Recipient shall, for each Service performed, reimburse Service Provider for all shipping costs, selling costs, general administration costs, costs of goods, R&D services costs, and

other income and expenses related solely to the SpinCo Business direct P&L, that are incurred by the Service Provider directly, as allocated costs or as costs payable to a Third Party (collectively, "Reimbursable Costs"), in each case without any mark-up. Without limiting the foregoing, Reimbursable Costs shall include, subject to the other applicable terms of this Agreement (including Section 17.1 with respect to Third Party consents), (a) expenses payable to Third Parties in providing the Services, (b) expenses payable to Third Parties, following the Region Effective Date, for tailoring, expanding or otherwise modifying any Service or any part of the Service Provider ERP System provided to the SpinCo Business prior to the Region Effective Date in any manner required to provide such Service to Service Recipient in accordance with the terms and conditions of this Agreement, (c) Third Party fees, costs or expenses payable by Service Provider or any of its Representatives to any Third Party(ies) for the licensing, provisioning, implementation, maintenance or operation of separate environments, separate instances of existing environments or "clean" environments necessary to provide the Services or Service Provider ERP System to Service Recipient, (d) any fees payable to any Third Party(ies) that are associated with extending, expanding or maintaining Third Party licenses or other contracts necessary to provide the Services or Service Provider ERP System to Service Recipient, and (e) any additional shared fees or costs payable by the Service Provider that are set out in the Separate LSA Schedule.

11.2.3 Once monthly, the Service Provider shall issue an invoice to the Service Recipient for all Products which the Service Provider has sold to customers during that month.

11.3 Invoicing and Payment Terms.

11.3.1 Service Provider, directly and/or through one or more Service Provider Subsidiaries, shall invoice Service Recipient, directly and/or through one or more of Service Recipient Subsidiaries pursuant to Section 11.3.2, once monthly in arrears for the Administrative Fee and all Reimbursable Costs pursuant to this Agreement. Such invoices shall contain reasonable detail of the Service provided and the charge therefor based on information from the Service Provider ERP System. Service Recipient, including all applicable Service Recipient Subsidiaries, shall pay Service Provider, or each relevant Service Provider Subsidiary (where applicable), for all undisputed amounts due for Services provided hereunder by the twenty-fifth (25th) day of each month for any invoice received prior to that day in the same month. If payment is not made by the twenty-fifth (25th) day of the month, Service Provider may send notice of non-payment to the Treasurer of Service Recipient in accordance with Section 25.8 (a "Non-Payment Notice"). Late payments shall bear interest at eight percent (8%) per annum for all undisputed amounts not paid within ten (10) days from receipt of a Non-Payment Notice therefor (or such lesser rate which is the maximum rate allowed by law) (the "Interest Payment"). Failure to pay undisputed amounts due hereunder within sixty (60) days from receipt of a Non-Payment Notice therefor pursuant to the terms of this Agreement shall be a material breach and Service Provider may terminate this Agreement with respect to the applicable Service for which such payment failure applies under Section 20.2 hereof (after the applicable cure period set forth therein).

11.3.2 Notwithstanding any provision of this Agreement or the Separation and Distribution Agreement to the contrary, with respect to each Region, invoices for such Services may be delivered directly by the applicable Service Provider Subsidiary or other local Service Provider Affiliate to the applicable Service Recipient Subsidiary or other Service Recipient Affiliate for such Region, including that Reimbursable Costs may be invoiced with respect to the applicable Region in which they were incurred and applicable portions of the Administrative Fee may be invoiced with respect to the applicable Region in which the Net Revenue applicable to such portion was earned, and payment thereof shall be made directly by such Service Recipient Subsidiary or other local Affiliate to such Service Provider Subsidiary or other local Affiliate, provided that Service Recipient shall remain responsible for all amounts invoiced to and payments made by Service Recipient Subsidiaries; provided, further, that Service Provider shall send copies of such invoices to Service Recipient and; provided, further, that, for clarity and without limiting or expanding Section 11.3.1, the obligation of Service Recipient and/or the applicable Service Recipient Subsidiary to pay all undisputed amounts due under any invoice pursuant to Section 11.3.1 shall commence only upon receipt of such invoice by Service Recipient.

11.3.3 To the extent that Section 11.3.2 applies, Service Provider shall have the right to submit an aggregate invoice, itemized by country, or an aggregate reconciliation statement, itemized by country, to Service Recipient on a monthly basis for all amounts payable by Service Recipient to Service Provider pursuant to this Agreement. If necessary, local country or Region invoices will also be issued in the currency of the country in which they originate. Such invoices and reconciliation statements shall contain reasonable detail of the Services provided, the charges therefor, and Reimbursable Costs incurred, and to the extent, permitted by this Agreement. For any amounts payable under this Agreement that are not collected by Service Provider as described immediately above in Section 11.3.2, Service Recipient shall pay Service Provider for all amounts due for Services provided hereunder within thirty (30) calendar days from receipt of an invoice therefor in the currency of the country in which they originate in accordance with the payment terms of Section 11.3.1.

11.3.4 Except as the Parties may expressly agree in writing, amounts due hereunder shall not be offset by amounts due or claims under any other agreement.

11.4 Supporting Documentation of Reimbursable Costs

11.4.1 Upon Service Recipient's reasonable request, Service Provider shall provide reasonable documentation in its possession to support the amount of Reimbursable Costs reimbursed by Service Recipient hereunder.

11.5 Taxes.

11.5.1 All charges under this Agreement are exclusive of any Taxes, including sales, use, VAT, consumption, excise, withholding or similar taxes (other than Taxes based on Service Provider's net income) that may apply to the transactions contemplated by this Agreement. Service Recipient shall be responsible for paying all such Taxes. Service Provider may collect such Taxes from Service Recipient as required by law.

11.5.2 Deductions or Withholding.

11.5.2.1 If any amount of any payment under this Agreement is required to be deducted and withheld with respect to the making of such payment under any provision of applicable Law, the applicable Party (the "Withholding Agent") shall be entitled to deduct and withhold such amount as required by applicable Law, provided that prior to such withholding, the Withholding Agent shall give written notice of its intention to deduct and withhold and allow the other Party sufficient time to furnish any required documentation and forms to minimize or eliminate such withholding. The Withholding Agent shall pay all such withheld amounts to the applicable Governmental Authority. For the avoidance of doubt, the provisions of this Section 11.5 shall apply to Affiliates of Service Provider and Service Recipient as if such Affiliate were Service Provider or Service Recipient, as applicable.

11.5.2.2 Notwithstanding anything in this Agreement to the contrary, if any deductions or withholdings are required to be made by Service Recipient as aforesaid as a result of Service Recipient being organized in a jurisdiction that is different from Service Provider, Service Recipient shall be obliged to pay to Service Provider such amount as will, after the deduction or withholding has been made, leave Service Provider with the same amount as it would have been entitled to receive in the absence of such requirement to make a deduction or withholding, provided that if Service Provider subsequently receives a credit for such deduction or withholding for the taxable year in which the deduction or withholding was made, then Service Provider shall promptly repay an amount equal to such credit up to the lower of:

(a) the amount previously paid by Service Recipient; or

(b) the amount which would put Service Provider in the same position as if no deductions or withholdings had been required to be made in respect of the relevant payment to Service Provider.

11.5.3 Notwithstanding any provision of this Agreement or the Separation and Distribution Agreement to the contrary, Service Recipient shall indemnify (in applicable local currency) Service Provider and its Affiliates against all income Taxes required to be paid by Service Provider, its Affiliates or its Representatives arising or resulting from a requirement under applicable local Law that Service Provider, its Affiliates or its Representatives take into account as its own income (to the extent not fully offset by corresponding deductions) amounts collected on behalf of Service Recipient or its Affiliates in any jurisdiction.

11.6 Regional Agreements. Where the Parties agree from time to time that, for legal, regulatory or tax reasons associated with this Agreement or the provision of Services hereunder, a further local agreement should be put in place in respect of a particular Region, the Parties or their respective local Affiliates in such Region will, if and upon agreement thereto, enter into an additional, written ancillary agreement setting forth such additional terms and conditions applicable to such Region (each, a "Regional Agreement"). The applicable local Service Provider Subsidiary will be the Service Provider party to a Regional Agreement. If there is any inconsistency between the terms of this Agreement and the terms of the applicable Regional Agreement, the terms of

such Regional Agreement shall govern. The Regional Agreements are intended to implement the provision of Services in the applicable Region in compliance with the applicable Laws of such Region.

12. GUARDRAILS

12.1 In order to avoid significant cost incurrence or loss by the Service Provider or its Affiliates, and for purposes of maintaining adequate service levels and the Pre-Effective Date Service Form hereunder, and to retain the pricing terms set forth in Section 11 (which are in part based on space and resource requirements at current volumes), Service Recipient shall, and shall cause its Affiliates to, at all times during the term, ensure the volumes of all Products maintained in each Facility during each month of the Term, on a Facility-by-Facility basis, are within plus-or-minus twenty percent (+/- 20%) of the average inventory stock of the Products in such Facility over the twelve (12) month period immediately preceding the Region Effective Date (with respect to each such Facility, the "Guardrail"). For the avoidance of doubt, the "Suzhou 3" manufacturing plant will be the sole exception, with no guardrails in place with regards to minimum or maximum volume, in accordance with the agreement in place with respect to the "Suzhou 3" manufacturing plant. Without limiting the foregoing, if the Service Recipient becomes aware of circumstances (including, for clarity, inventory-level management) that could result in such volumes of Products at any Facility exceeding the applicable Guardrail therefor, Service Recipient will promptly notify Service Provider thereof and the Parties will discuss in good faith potential operational adjustments to be mutually agreed in an effort to accommodate such volumes; provided that (i) the Service Recipient will bear all fees and costs associated therewith, which shall be deemed to be "Reimbursable Costs" hereunder and paid to Service Provider in accordance with Section 11.2.2, (ii) such adjustments shall not create volume or space limitations on or otherwise adversely affect Service Provider's or its Affiliates' businesses, and (iii) the Guardrail shall continue to apply except as and to the extent specifically agreed otherwise by the Parties in writing; provided further that, without limiting the foregoing clause (i), both Parties will use commercially reasonable efforts to mitigate any cost or loss that they may suffer or incur. Any adjustment to the Guardrail for any portions of the Term will be subject to the mutual written agreement of the Parties; provided that, for clarity, the Guardrail shall continue to apply without any adjustment unless and until such adjustment is so agreed.

12.2 For each Region, Service Recipient shall provide to Service Provider, on the Region Effective Date, a detailed written assessment of volumes of Products and all storage requirements therefor with respect to each Facility, together with a written forecast of such volumes, reflecting Service Recipient's reasonable and good faith projections, with respect to each month during the initial twelve (12) months following the Region Effective Date. Service Recipient shall update such forecast in writing to Service Provider on a quarterly basis, reflecting Service Recipient's reasonable and good faith projections, with respect to each month during the twelve (12) months following the date of such update. Without limiting the foregoing, Service Recipient shall reasonably promptly notify Service Provider in writing if Service Recipient plans to shift any material portion of volumes (*i.e.*, twenty percent (20%) or greater) of Product from any Region to a different Region or from any Facility to a different Facility.

12.3 For purposes of this Section 12, "Facility" shall mean each warehouse, distribution center or other facility used in connection with any Products hereunder.

12.4 Without limiting the foregoing, (i) to the extent Service Provider requires a narrower Guardrail with respect to any Facility operated by Service Provider than the plus-or-minus twenty percent (+/- 20%) threshold described above, such narrower Guardrail shall apply to such Facility, and (ii) Service Recipient shall reasonably cooperate to ensure that all volume, packaging, size and other similar requirements are adhered to and the same pricing tiers applicable immediately prior to the Region Effective Date remain applicable at all times during the Term, taking into account the combined volumes of Products and any products of Service Provider or its Affiliates that are stored at or pass through the relevant Facility.

13. RELATIONSHIP BETWEEN THE PARTIES

13.1 The Parties to this Agreement are and shall remain independent contractors and neither Party is an employee, agent, partner, franchisee or joint venturer of or with the other. Each Party will be solely responsible for all actions or omissions of its employees and for any employment-related taxes, insurance premiums or other employment benefits respecting its employees. Neither Party shall hold itself out as an agent of the other and neither Party shall have the authority to bind the other. For clarity, this Section 13.1 is subject to and shall not limit Section 13.2.

13.2 Appointment of Service Provider Agent as Service Recipient's Agent.

13.2.1 Agency Appointment. Service Recipient and each Service Recipient Subsidiary hereby confirms its appointment of each Service Provider Affiliate identified in Schedule 1 to act as Service Recipient's undisclosed agent of the Service Recipient Subsidiary identified in Schedule 1 in providing the Services in the Region designated for each such Service Recipient Subsidiary in such Schedule for the Term, and Service Provider and each Service Provider Subsidiary hereby confirms its acceptance of such appointment by such Service Recipient Subsidiary (with respect to such Regions, the "Service Provider Agent"). Unless resulting in an increase in taxes or other fees, Service Provider may change the Service Provider Agent with respect to any Region by providing written notice of such change to Service Recipient.

13.2.2 Agency Status. The Service Provider Agent shall perform the Services as agent under this Agreement in its own name but for the account of Service Recipient (and/or the relevant Service Recipient Subsidiary) and at the risk of Service Recipient (and/or the relevant Service Recipient Subsidiary) without the need to disclose its status as an agent of Service Recipient (and/or the relevant Service Recipient Subsidiary). For the avoidance of doubt, Service Recipient (and/or the relevant Service Recipient Subsidiary) shall be responsible for any actions or omissions that are performed by the Service Provider Agent on the Service Recipient's (and/or the relevant Service Recipient Subsidiary's) instructions.

13.2.3 Authority as Agent of Principal. The Service Provider Agent is authorized to perform for the account of the Service Recipient (and/or the relevant Service Recipient Subsidiary), all acts the Service Provider Agent deems necessary or appropriate to fully perform the Services in a manner consistent with its practices while the SpinCo Business was owned by Service Provider or its Affiliate, using its independent business judgment, and in accordance with the Pre-Effective Date Service Form without, except as may otherwise be required by applicable Laws, obtaining the prior approval of the Service Recipient (and/or the relevant Service Recipient Subsidiary), and subject to, in any event, the terms and conditions of this Agreement.

13.2.4 Relationship Between the Agent and the Principal. Without prejudice to Section 13.2.1, in performing the Services, the Service Provider Agent will be acting as an independent contractor engaged by Service Recipient (and/or the relevant Service Recipient Subsidiary) to perform the Services for the benefit of Service Recipient (and/or the relevant Service Recipient Subsidiary).

13.2.5 Local Agreements. Where necessary, the Parties may provide for further local agreements to formalize the legal relationship between the Parties in a specific Region.

13.2.6 No Conflict. For clarity, this Section 13.2 is subject to and shall not limit Section 2.

13.2.7 Cooperation. The Parties will reasonably cooperate with each other to evaluate and address potential VAT implications relating to the foregoing in this Section 13.2 (if any).

14. PERFORMANCE BY REPRESENTATIVES

14.1 Without limiting Section 2, Service Provider may engage one or more Affiliates, Third Parties or other Service Provider Representatives (each a "Subcontractor") to perform all or any portion of the Service Provider's duties under this Agreement, provided that (i) the Service Provider remains responsible for the performance of such Service Provider Representatives, and (ii) no such engagement, to the extent such Services are to be provided directly by Service Provider pursuant to the Services Schedule, shall increase or result in additional charges for the Services, or fees or expenses, to Service Recipient or any of its Affiliates as applicable.

15. INSURANCE

15.1 The Parties may maintain, during the Term of this Agreement, such insurance policies or self-insurance as they deem appropriate, each for their own requirements.

16. RISK OF LOSS; RISK OF NON-PAYMENT

16.1 Except as otherwise expressly provided in this Section 16, as between the Parties, Service Recipient shall bear all risk of loss with respect to the Products and all risk of non-payment by customers with respect to the Products.

16.2 If any Product is damaged, lost or stolen while in a warehouse owned or controlled by Service Provider or its Affiliates, as between the Parties, Service Provider is responsible under this Agreement for such damage, theft or loss only to the extent the damage, theft or loss results from Service Provider's or such Affiliate's gross negligence or willful misconduct. In the event Service Provider is so responsible as provided in the immediately preceding sentence, Service Provider's sole obligation and liability shall be to compensate Service Recipient at an amount equal to the replacement cost of such Product to the extent so damaged, stolen or lost.

16.3 For the avoidance of doubt and without limiting Sections 16.1 or 16.2, as between the Parties, Service Recipient's rights against Third Parties shall not be affected by the allocation of risk of loss as between the Parties set forth in the foregoing provisions of this Section 16. Service Provider shall reasonably cooperate in good faith with Service Recipient, at Service Recipient's cost, to make claims under any applicable Third Party contract with respect to (a) any damage, theft or other risk of loss with respect to the Products thereunder or (b) any non-performance, breach, default or other failure to provide services, in each case subject to the terms and conditions of such Third Party contract (including any allowances or other relevant thresholds thereunder).

17. SERVICE RECIPIENT LIABILITY TO THIRD PARTIES

17.1 Third Party Consents. With respect to any Services which require a license or service provided by a Third Party (including through the sub-contracting of any relationship with any Third Party), to the extent the consent of a Third Party is needed for Service Provider to provide any such Services to the Service Recipient and its Affiliates, then Service Provider will use its reasonable best efforts to secure the consent of such Third Party to provide Service Recipient with access to such Third Party contract, license or service, as applicable, in accordance with the terms and conditions of this Agreement. Any costs with respect to securing any such consents shall be the responsibility of the Service Recipient to the extent required by such Third Party contract, license, service. To the extent a Third Party requires or requests that Service Provider make any payment to the extent not required by the terms of the relevant contract, license, service in order to obtain a consent addressed by this Section 17.1, Service Provider and Service Recipient shall jointly determine in good faith whether or not to negotiate and/or make such payment, and to the extent agreed, such payment shall be reimbursed by Service Recipient. If Service Provider is unable to secure the consent of the applicable Third Party vendor using its reasonable best efforts, or if Service Recipient does not pay for the applicable consent, then, notwithstanding any provision of this Agreement or the Separation and Distribution Agreement to the contrary, Service Provider (and its Affiliates) shall have no obligation to provide the impacted Service, and the Parties shall reasonably cooperate in good faith to effect an alternate method of providing the Service to Service Recipient to the extent practicable.

18. INDEMNIFICATION

18.1 Service Recipient hereby agrees to indemnify, defend and hold harmless Service Provider, its Affiliates, its Representatives and its and their respective officers,

directors, agents, employees and Affiliates, from and against any and all Losses arising out of, relating to or resulting from (i) Service Recipient's or any of its Representative's gross negligence or willful misconduct relating to this Agreement, (ii) Service Recipient's or any of its Representative's breach of this Agreement, or (iii) any product liability or other claims by Third Parties with respect to any Products (other than with respect to the misuse of such Product by Service Provider or to the extent covered by an indemnification obligation of Service Provider or its Affiliates under this Agreement, any Ancillary Agreement or the Separation and Distribution Agreement).

18.2 Service Provider hereby agrees to indemnify, defend and hold harmless Service Recipient and its officers, directors, agents, employees and Affiliates from and against any and all Losses arising out of, relating to or resulting from (i) Service Provider's or any of its Representative's gross negligence or willful misconduct relating to this Agreement or (ii) Service Provider's or any of its Representative's breach of this Agreement except to the extent arising from a claim for which Service Recipient has an indemnification obligation pursuant to Section 18.1.

18.3 Notwithstanding anything provided herein, if an indemnitor and indemnitee have, through their negligent acts or willful misconduct or omissions or breaches of this Agreement, jointly contributed to any of the matters to be indemnified hereunder, the indemnitee shall be indemnified hereunder only to the extent that such indemnified matters were not caused by the negligent acts, acts of willful misconduct or omissions of, or breaches of this Agreement by, the indemnitee.

18.4 With respect to Third Party claims asserted against a Party for which the other Party has an indemnification obligation under this Section 18, (a) the indemnified Party shall provide the indemnifying Party with written notice describing such indemnification claim ("Claim") in reasonable detail in light of the circumstances then known and then providing the indemnifying Party with further notices to keep it reasonably informed with respect thereto; provided however, that failure of the indemnified Party to keep the indemnifying Party reasonably informed as provided herein shall not relieve the indemnifying Party of its obligations hereunder except to the extent that the indemnified Party is materially prejudiced thereby; (b) the indemnifying Party shall be entitled to participate in such Claim and assume the defense thereof with counsel reasonably satisfactory to the indemnified Party, at the indemnifying Party's sole expense; and (c) the indemnified Party shall reasonably cooperate with the indemnifying Party, at the indemnifying Party's sole cost and expense, in the defense of any Claim. The indemnifying Party will not accept any settlement unless the settlement includes as an unconditional term thereof the giving by the claimant or the plaintiff of a full and unconditional release of the indemnified Party, from all liability with respect to the matters that are subject to such Claim, without the indemnified Party's prior written consent, which consent shall not be unreasonably withheld or delayed. The indemnified Party may participate in the defense of any claim with counsel reasonably acceptable to the indemnifying Party, at the indemnified Party's own expense.

19. LIMITATION OF LIABILITY; EXCLUSION OF CONSEQUENTIAL DAMAGES.

19.1 EXCEPT FOR CLAIMS ARISING AS A RESULT OF (A) A PARTY'S BREACH OF ITS CONFIDENTIALITY OBLIGATIONS UNDER SECTION 22 AND (B) A PARTY'S INDEMNIFICATION OBLIGATIONS WITH RESPECT TO THIRD PARTY LOSSES UNDER SECTION 18: (I) NEITHER PARTY WILL BE LIABLE TO THE OTHER FOR ANY LOST PROFITS, SPECIAL, INCIDENTAL, INDIRECT, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES, HOWEVER CAUSED, UNDER ANY THEORY OF LIABILITY, ARISING FROM THE PERFORMANCE OF, OR RELATING TO, THIS AGREEMENT REGARDLESS OF WHETHER SUCH PARTY HAS BEEN NOTIFIED OF THE POSSIBILITY OF, OR THE FORESEEABILITY OF, SUCH DAMAGES, AND (II) IN NO EVENT SHALL EITHER PARTY'S LIABILITY FOR DAMAGES HEREUNDER EXCEED, WITH RESPECT TO ANY SERVICES, THE AMOUNT OF FEES PAID BY SERVICE RECIPIENT TO SERVICE PROVIDER UNDER THIS AGREEMENT, SOLELY TO THE EXTENT RELATED TO THE SERVICES HEREUNDER, EXCEPT IN THE CASE OF SUCH PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. FOR THE AVOIDANCE OF DOUBT, NOTHING IN THIS SECTION 19.1 SHALL LIMIT SERVICE RECIPIENT'S LIABILITY FOR PAYMENT OF THE FEES AND REIMBURSABLE COSTS IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT.

20. TERMINATION

20.1 Termination by agreement. Service Recipient and Service Provider may agree to terminate this Agreement early, either with respect to all Regions or any one or more Regions hereunder, at any time subject to prior written mutual agreement (including as to notice (which shall not be less than ninety (90) days), exit costs and revised fees for remaining Regions and Services).

20.2 Termination by Either Party. Either Party may terminate this Agreement with respect to an affected Region if the other Party commits a material breach of this Agreement that materially and adversely impacts the provision of Services in such Region or the other Party or an Affiliate of the other Party or its business, operations or assets and fails to cure such breach within ninety (90) days (thirty (30) days in the event of a payment breach) after receiving written notice of the breach. The Parties hereto hereby acknowledge and agree that any breach by any of their respective Representatives of any term or condition of this Agreement shall be deemed to be a breach by the applicable Party hereto of such term or condition (and any material breach by such Persons that has the effect set forth in the preceding sentence shall be grounds for termination of the affected Service pursuant to the preceding sentence). Any notice sent by Service Provider with respect to a material breach and/or intention to terminate this Agreement shall also be sent to Service Recipient addressees in Section 25.8.

20.3 Survival of Selected Provisions. Any provision which by its nature should survive, including the provisions of this Section 20.3 (Termination), Section 11 (Factoring, Fees, Reimbursable Costs and Payment Terms), Section 16 (Risk of Loss),

Section 18 (Indemnification), Section 19 (Limitation of Liability; Exclusion of Consequential Damages), Section 22 (Confidentiality), Section 23 (Force Majeure), and Section 25 (Miscellaneous), shall survive the termination of this Agreement.

20.4 Post-Termination or Expiration Obligations. In connection with the termination or expiration of this Agreement for any reason whatsoever, the applicable Transition Plans shall govern the Parties' activities with respect to transitioning from all Services. Each Party shall use commercially reasonable efforts to return any and all written Confidential Information and any other materials and property in tangible form in the possession or under the control of such Party to the other Party, including any marketing materials, literature and product samples.

21. INTELLECTUAL PROPERTY RIGHTS

21.1 Existing Ownership Rights Unaffected. Neither Party will gain, by virtue of this Agreement, any rights of ownership (or, except as provided in Section 21.3, use) of copyrights, patents, trade secrets, trademarks or any other intellectual property rights owned by the other Party or its Affiliates. Except as set forth in the Ancillary Agreements, no license, title, ownership, or other intellectual property or proprietary rights are transferred to Service Recipient or any Service Recipient Representative pursuant to this Agreement, and Service Provider retains all such rights, titles, ownership and other interests in the Service Provider ERP System and all other software, hardware, systems and resources it uses to provide the Services, including, any special programs, functionalities, interfaces, or other work product that Service Provider or its Representatives may develop at Service Recipient's request to provide the Services. Each Party shall be the sole and exclusive owner of, and nothing in this Agreement shall be deemed to grant the other Party, or any Representative of such Party, any right, title, license (other than as provided in Section 21.3), leasehold right or other interest in or to, any copyrights, patents, trade secrets, other intellectual property rights, ideas, concepts, techniques, inventions, processes, systems, works of authorship, facilities, floor space, resources, special programs, functionalities, interfaces, computer hardware or software, documentation or other work product developed, created, modified, improved, used or relied upon by either Party or its Representatives in connection with the providing or receiving Services or the performance of either Party's obligations hereunder. For the avoidance of doubt, no items created by either Party shall be considered a work made for hire for the other Party within the meaning of Title 17 of the United States Code.

21.2 Removal of Marks. The Parties agree that neither will remove any copyright notices, proprietary markings, trademarks or other indicia of ownership of the other Party from any materials of the other Party.

21.3 Intellectual Property License. Each Party hereby grants to the other, on behalf of itself and its Affiliates and only during the Term, a non-exclusive, worldwide, royalty-free, non-transferable, non-sublicensable, fully paid-up license to use any software, development tools, know-how, methodologies, processes, technologies, algorithms or any other intellectual property owned by such Party solely to the extent it is required for the purpose of providing or receiving such Services.

22. CONFIDENTIALITY

22.1 During the period beginning on the Commencement Date and ending on the date that is six (6) years from the date of expiry or termination of this Agreement, each Party shall retain in strict confidence, and shall cause such Party's Representatives to retain in strict confidence, the terms and conditions of this Agreement and all information and data relating to the other Party or its Affiliates received pursuant to this Agreement, including information regarding its business, employees, development plans, programs, documentation, techniques, trade secrets, systems, software and know-how ("Confidential Information"), and shall not use such Confidential Information other than in connection with the performance of this Agreement and, unless otherwise required by law, an order of court, a subpoena or other legal process (subject to Section 22.2 below), disclose such information to any Third Party without the other Party's prior written consent, except for Confidential Information that:

(a) was in such Party's possession on a non-confidential basis prior to the time of disclosure to such Party by the disclosing Party or its Representatives;

(b) was or becomes generally available to the public other than as a result of a disclosure by such Party or its Representatives;

(c) becomes available to such Party on a non-confidential basis from a source other than the disclosing Party or its Representatives;

(d) was independently developed by such Party without the use of Confidential Information of the other Party; or

(e) a Party is required to disclose to enforce its rights in this Agreement (and such use or disclosure shall be limited to that reasonably necessary for purposes of such enforcement, and subject to a protective order or other confidentiality protection where appropriate),

provided, in the case of clause (a) or (c), that the source of such information is not bound by a confidentiality agreement with the disclosing Party or otherwise prohibited from disclosing the information to the receiving Party by a contractual, legal or fiduciary obligation.

22.2 In the event that the receiving Party or any of its Representatives are requested or required by applicable Law, an order of court, a subpoena or other legal process to disclose any Confidential Information, the receiving Party will provide the disclosing Party with prompt written notice of any such request or requirement so that the disclosing Party may seek an appropriate protective order or other appropriate remedy. In the event that such protective order or other remedy is not obtained, or that the disclosing Party chooses not to seek such remedy, the receiving Party may disclose only that portion of the Confidential Information which is legally required and will exercise reasonable efforts to obtain assurance that confidential treatment will be accorded to such Confidential Information. The receiving Party agrees not to oppose action taken by the disclosing Party to obtain an appropriate protective order or other reliable assurance that confidential treatment will be accorded to the Confidential Information.

22.3 Each Party hereby acknowledges that the Confidential Information of the other Party may still be under development, or may be incomplete, and that such information may relate to products that are under development or are planned for development. NEITHER PARTY MAKES ANY REPRESENTATIONS REGARDING THE ACCURACY OF THE CONFIDENTIAL INFORMATION IT DISCLOSES TO THE OTHER PARTY. Neither Party shall have responsibility for any expenses, losses or actions incurred or undertaken by the other Party as a result of the other Party's receipt or use of Confidential Information.

22.4 It is understood and agreed that monetary damages may not be a sufficient remedy for any breach of this Section 22, and that the disclosing Party may be entitled to specific performance and injunctive or other equitable relief as a remedy for any such breach. Such remedy shall not be deemed to be the exclusive remedy for breach of this Section 22, but shall be in addition to all other remedies available at law or equity.

22.5 The obligations in this Section 22 shall survive any expiration or termination of this Agreement for six (6) years after the date of expiration or termination of this Agreement; provided, however, that, with respect to each trade secret of a Party or its Affiliates (where it is reasonably apparent that such item is a trade secret), such obligations shall continue as long as such trade secret remains otherwise protectable as a trade secret.

23. FORCE MAJEURE

23.1 Each Party (including their Affiliates) will be excused for any failure or delay in performing any of its obligations under this Agreement if such failure or delay is caused by any event or condition beyond the reasonable control of the impacted Party (including their Affiliates), including act of God, law or government regulations, court orders, war, act of terror, civil commotion, labor strike or lock-out, epidemic, failure or default of public utilities or common carriers, destruction of facilities, systems or materials by fire, earthquake, storm or like catastrophe (a "Force Majeure Event"); provided, however that the impacted Party notifies the other Party as soon as practicable, in writing, upon learning of the occurrence of the Force Majeure Event, stating the date and extent of such suspension and the cause thereof, and the Parties shall promptly confer, in good faith, on what action may be taken to minimize the impact, on both Parties, of such condition; provided, further, that the impacted Party (including their Affiliates) shall take measures to overcome the condition with respect to the Services which are consistent in all material respects with the measures taken in connection with the Party's other similarly affected operations, as relevant. A Party's (including their Affiliates') obligations hereunder (except their obligations expressly set forth in the foregoing sentence and their payment obligations in respect of Services already provided) shall be postponed until the cessation of the Force Majeure Event; provided that such Party will use commercially reasonable efforts to resume its performance hereunder.

24. AUDIT

24.1 Service Recipient shall be entitled, at Service Recipient's cost, to appoint an independent auditor reasonably acceptable to Service Provider to conduct periodic audits (not more frequently than twice per year) on reasonable advance notice and during normal business hours of the Reimbursable Costs, Set-Up Costs, the Net Revenue component of Administrative Fees and/or other expenses being charged in connection the Services provided by Service Provider, provided such audits shall be conducted in a manner that is intended to minimize, to the extent reasonably possible, disruption to the operations of Service Provider and its relevant Affiliates. Any such audits must be completed within six (6) months after completion of a Service. The independent auditor shall enter into a confidentiality agreement with Service Provider containing customary confidentiality obligations and shall, promptly following completion of such audit, disclose only the audit report, without any confidential audited materials, to both Parties.

24.2 If a Governmental Authority audit of Service Recipient reasonably requires access to records in Service Provider's possession with respect to the Services, Service Provider will reasonably cooperate to provide such records to allow the Service Recipient to comply with applicable Law.

24.3 Service Recipient shall be entitled, at Service Recipient's cost, during normal business hours and on reasonable notice to the Service Provider (and/or the relevant Service Provider Affiliate), to access the premises of the Service Provider (and/or the relevant Service Provider Affiliate) or the premises of a Third Party (provided that the Service Provider or relevant Service Provider Affiliate has the right to access such premises) where reasonably required to ensure that the Services are being provided to the standards required under this Agreement.

25. MISCELLANEOUS.

25.1 Mutual Cooperation. Each Party shall, and shall cause its Affiliates to, cooperate with the other Party and its Affiliates in connection with the performance of the Services hereunder; provided, however, that such cooperation shall not unreasonably disrupt the normal operations of such Party or its Affiliates; and, provided, further, that this Section 25.1 shall not require such Party to incur any out-of-pocket costs or expenses unless and except as expressly provided in this Agreement or otherwise agreed to in writing by the Parties.

25.2 Further Assurances. Subject to the terms of this Agreement, each Party shall take, or cause to be taken, any and all reasonable actions, including the execution, acknowledgment, filing and delivery of any and all documents and instruments that any other Party may reasonably request in order to effect the intent and purpose of this Agreement and the transactions contemplated hereby.

25.3 Audit Assistance. Each of the Parties and their respective Affiliates are or may be subject to regulation and audit by a Governmental Authority (including a Taxing Authority, as such term is defined in the Transition Services Agreement), standards organizations, customers or other parties to contracts with such Parties or their respective Affiliates under applicable Law,

standards or contract provisions. If a Governmental Authority, standards organization, customer or other party to a contract with a Party or its Affiliate exercises its right to examine or audit such Party's or its Affiliate's books, records, documents or accounting practices and procedures pursuant to such applicable Law, standards or contract provisions, and such examination or audit relates to the Services, then the other Party shall provide, at the sole cost and expense of the requesting Party, all assistance reasonably requested by the Party that is subject to the examination or audit in responding to such examination or audits or requests for Information (as such term is defined in the Transition Services Agreement), to the extent that such assistance or Information is within the reasonable control of the cooperating Party and is related to the Services.

25.4 Counterparts; Entire Agreement; Corporate Power.

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

25.4.2 This Agreement, the Separation and Distribution Agreement and the other Ancillary Agreements and the Exhibits, Schedules and appendices hereto and thereto contain the entire agreement between the Parties with respect to the subject matter hereof, supersede all previous agreements, negotiations, discussions, writings, understandings, commitments and conversations with respect to such subject matter, and there are no agreements or understandings between the Parties other than those set forth or referred to herein or therein. This Agreement, the Separation and Distribution Agreement, and the other Ancillary Agreements govern the arrangements in connection with the Separation and Distribution and would not have been entered into independently.

25.4.3 Each Party acknowledges and agrees that delivery of an executed counterpart of a signature page to this Agreement (whether executed by manual, stamp or mechanical signature) by e-mail in portable document format (PDF) shall be effective as delivery of such executed counterpart of this Agreement. Each Party expressly adopts and confirms each such facsimile, stamp or mechanical signature (regardless of whether delivered in person, by mail, by courier or by e-mail in portable document format (PDF)) made in its respective name as if it were a manual signature delivered in person, agrees that it will not assert that any such signature or delivery is not adequate to bind such Party to the same extent as if it were signed manually and delivered in person and agrees that, at the reasonable request of the other Party at any time, it will as promptly as reasonably practicable cause this Agreement to be manually executed (any such execution to be as of the date of the initial date thereof) and delivered in person, by mail or by courier.

25.5 Governing Law. This Agreement (and any claims or disputes arising out of or related hereto or to the transactions contemplated hereby or to the inducement of any Party to enter herein, whether for breach of contract, tortious conduct or otherwise and whether predicated on common law, statute or otherwise) shall be governed by and construed and interpreted in accordance with the Laws of the State of Delaware, irrespective of the choice of Laws principles of the State of Delaware, including all matters of validity, construction, effect, enforceability, performance and remedies.

25.6 Assignability. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns; provided, however, that neither Party may assign its rights or delegate its obligations under this Agreement without the express prior written consent of the other Party. Notwithstanding the foregoing, Service Provider may assign this Agreement or all of its rights or obligations hereunder to any Affiliate without Service Recipient's prior written consent (but with notice to the Service Recipient) solely to the extent such Affiliate can continue to deliver the Services hereunder without interruption.

25.7 Third-Party Beneficiaries. Except as expressly stated otherwise in this Agreement, (a) the provisions of this Agreement are solely for the benefit of the Parties and are not intended to confer upon any other Person except the Parties any rights or remedies hereunder; and (b) there are no other third-party beneficiaries of this Agreement and this Agreement shall not provide any other Third Party with any remedy, claim, liability, reimbursement, claim of action or other right in excess of those existing without reference to this Agreement.

25.8 Notices. All notices, requests, claims, demands or other communications under this Agreement shall be in writing and shall be given or made (and except as provided herein shall be deemed to have been duly given or made upon receipt) by delivery in person, by overnight courier service, by certified mail, return receipt requested, by electronic mail ("e-mail"), so long as confirmation of receipt of such e-mail is requested and received, to the respective Parties at the following addresses (or at such other address for a Party as shall be specified in a notice given in accordance with this Section 25.8):

If to Service Provider, to:

Becton, Dickinson and Company
1 Becton Drive
Franklin Lakes, New Jersey 07417
Attention: Joseph LaSala
Chief Counsel - Transactions/M&A
E-mail: joseph_lasala@bd.com

If to Service Recipient, to:

Embecta Corp.
1 Becton Drive
Franklin Lakes, New Jersey 07417
Attention: Jeff Mann
Senior Vice President, General Counsel
Head of Corporate Development and Corporate Secretary
E-mail: jeff.mann@bd.com; jeff.mann@embecta.com

Any Party may, by notice to the other Party, change the address to which such notices are to be given or made.

25.9 Severability. If any provision of this Agreement or the application thereof to any Person or circumstance is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions hereof, or the application of such provision to Persons

or circumstances or in jurisdictions other than those as to which it has been held invalid or unenforceable, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby. Upon such determination, the Parties shall negotiate in good faith in an effort to agree upon such a suitable and equitable provision to effect the original intent of the Parties.

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

25.11 Waivers of Default. Waiver by any Party of any default by the other Party of any provision of this Agreement shall not be deemed a waiver by the waiving Party of any subsequent or other default, nor shall it prejudice the rights of the waiving Party. No failure or delay by any Party in exercising any right, power or privilege under this Agreement shall operate as a waiver thereof, nor shall a single or partial exercise thereof prejudice any other or further exercise thereof or the exercise of any other right, power or privilege.

25.12 Specific Performance. Subject to Section 7, in the event of any actual or threatened default in, or breach of, any of the terms, conditions and provisions of this Agreement, the Party or Parties who are, or are to be, thereby aggrieved shall have the right to specific performance and injunctive or other equitable relief in respect of its rights 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 the remedies at law for any breach or threatened breach, including monetary damages, are inadequate compensation for any loss and that any defense in any action for specific performance that a remedy at law would be adequate is waived. Any requirements for the securing or posting of any bond with such remedy are hereby waived by each of the Parties. Unless otherwise agreed in writing, Service Provider shall continue to provide Services and the Parties shall honor all other commitments under this Agreement during the course of dispute resolution pursuant to the provisions of Section 7 and this Section 25.12 with respect to all matters not subject to such Dispute; provided, however, that this obligation shall only exist during the term of this Agreement.

25.13 Amendments. No provisions of this Agreement shall be deemed waived, amended, supplemented or modified by a Party, unless such waiver, amendment, supplement or modification is in writing and signed by the authorized representative of the Party against whom enforcement of such waiver, amendment, supplement or modification is sought.

25.14 Precedence of Schedules. Each Schedule attached to or referenced in this Agreement is hereby incorporated into and shall form a part of this Agreement; provided, however, that the terms contained in such Schedule shall only apply with respect to the Services provided under that Schedule. In the event of a conflict between the terms contained in an individual Schedule and the terms in the body of this Agreement, the terms in the Schedule shall take precedence with respect to the Services under such Schedule only. No terms contained in individual Schedules shall otherwise modify the terms of this Agreement.

25.15 Interpretation. In this Agreement, (a) words in the singular shall be deemed to include the plural and vice versa and words of one gender shall be deemed to include the other genders as the context requires; (b) the terms “hereof,” “herein” and “herewith” and words of

similar import shall, unless otherwise stated, be construed to refer to this Agreement as a whole (including all of the Schedules, Annexes and Exhibits hereto) and not to any particular provision of this Agreement; (c) Article, Section, Exhibit, Annex and Schedule references are to the Articles, Sections, Exhibits, Annexes and Schedules to this Agreement unless otherwise specified; (d) unless otherwise stated, all references to any agreement shall be deemed to include the exhibits, schedules and annexes to such agreement; (e) the word "including" and words of similar import when used in this Agreement shall mean "including, without limitation," unless otherwise specified; (f) the word "or" shall not be exclusive; (g) the word "extent" in the phrase "to the extent" shall mean the degree to which a subject or other thing extends, and such phrase shall not mean simply "if"; (h) unless otherwise specified in a particular case, the word "days" refers to calendar days; (i) references to "business day" shall mean any day other than a Saturday, a Sunday or a day on which banking institutions are generally authorized or required by Law to close in the United States or Franklin Lakes, New Jersey; (j) references herein to this Agreement or any other agreement contemplated herein shall be deemed to refer to this Agreement or such other agreement as of the date on which it is executed and as it may be amended, modified or supplemented thereafter, unless otherwise specified; and (k) unless expressly stated to the contrary in this Agreement, all references to "the date hereof," "the date of this Agreement," "hereby" and "hereupon" and words of similar import shall all be references to January 1, 2022.

25.16 Mutual Drafting. This Agreement shall be deemed to be the joint work product of the Parties and any rule of construction that a document shall be interpreted or construed against a drafter of such document shall not be applicable to this Agreement.

26. SCHEDULES

26.1 The following Schedules, as amended or supplemented from time to time, are attached hereto and made part of this Agreement.

Schedule Number	Name
1	Service Provider and Service Recipient Entities by Region
2	Services Schedule
3	Excluded Services
4 – Part I	Factoring Agreement
4 – Part II	Receivables Servicing Agreements
5	Pricing
6	Certain Service Recipient Responsibilities
7	Products

[Signatures Follow On a Separate Page]

IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be executed on its behalf by their respective officers thereunto duly authorized all as of the date first written above.

"Service Recipient"

Embecta Corp.

By: /s/ Gary Michael DeFazio

Name: Gary Michael DeFazio

Title: Secretary

"Service Provider"

Becton, Dickinson and Company

By: /s/ Gary Michael DeFazio

Name: Gary Michael DeFazio

Title: Senior Vice President, Corporate Secretary and Associate General Counsel

FORM OF DISTRIBUTION AGREEMENT[1]

THIS DISTRIBUTION AGREEMENT (this "Agreement") is dated as of [•][2], by and between:

(A) [*Please delete as appropriate, for APAC:* MWB Shelfco 65 Pte. Ltd. */ for LATAM:* [Berra Operations LLC and MWB 41 Sàrl] ([*for LATAM only:* together] "Supplier"); and

(B) [For APAC: Becton Dickinson Holdings Pte. Ltd. / For LATAM: Becton, Dickinson and Company for the Products exported to the Territories by Becton, Dickinson and Company and BD Switzerland Sàrl for the Products exported to the Territories by BD Switzerland Sàrl ([*for LATAM only:* each (as applicable for the relevant Products)]"Distributor").

Supplier and Distributor may each be referred to herein individually as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, in connection with the transactions contemplated by the Separation and Distribution Agreement, the Parties contemplate that during the Term (as defined herein), Distributor will be appointed as a distributor of Supplier to support certain commercial operations of the SpinCo Business as it relates to the Products (as defined herein) in each Territory until (i) Governmental Approvals required to distribute the Products in such Territory are obtained and order-to-cash processes and other services of the SpinCo Business for such Territory are migrated to an alternative commercial arrangement between the Parties, or (ii) the services of the SpinCo Business for such Territory are transitioned to a third-party distributor or to an independent infrastructure of Supplier, in each case in accordance with the terms and conditions set forth herein (the "Purpose").

WHEREAS, Becton Dickinson Holdings Pte. Ltd. exports the Products to the relevant Territory as agent for Supplier pursuant to the LSA.[3]

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1 Note to Form: once the template has been agreed this agreement will be duplicated x 3: one for APAC (covering China (5%- Shanghai), India (includes sales to Bangladesh and South Asia), Indonesia, Korea, Taiwan and Hong Kong); and one for LATAM (covering Brazil (excluding product from Curitiba), Colombia (includes sales to Ecuador), Argentina, Chile, Peru and Mexico)

2 Note to Form: the date of the agreement shall be the Distribution Date (as defined in the Separation and Distribution Agreement)

3 Note to Form: required for APAC Distribution Agreement only

WHEREAS, Becton, Dickinson and Company and BD Switzerland Sàrl exports the Products to the relevant Territory as agent for Supplier pursuant to the LSA.[4]

NOW, THEREFORE, the Parties agree as follows:

1. DEFINITIONS

For the purpose of this Agreement, the following capitalized terms shall have the following meanings. Capitalized terms which are used but not defined herein shall have the meanings ascribed to such terms in the Separation and Distribution Agreement.

"Additional Services" shall have the meaning set forth in Section 4.6.

"Affiliate" of any Person shall mean any Person directly or indirectly controlling, controlled by, or under common control with, such Person; provided, however, that, for the purposes of this definition, "control" (including, with correlative meanings, the terms "controlled by" and "under common control with"), as used with respect to any 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, by contract, or otherwise.

"Ancillary Agreements" has the meaning set forth in the Separation and Distribution Agreement (but, for the avoidance of doubt, includes the Separation and Distribution Agreement.

"Claim" shall have the meaning set forth in Section 18.4.

"Commencement Date" shall mean the date at the top of this Agreement.

"Confidential Information" shall have the meaning set forth in Section 22.1.

"Customer Agreements" shall have the meaning set forth in Section 8.2.

"Data Protection Laws" means: (a) the Data Protection Act 2018; (b) the General Data Protection Regulation (EU) 2016/679 ("GDPR"); (c) the GDPR as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018, and as amended by the Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019 ("UK GDPR"); (d) the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2003/2426), and (e) all United Kingdom and European Union (with direct effect) laws and regulations relating to processing of personal data and privacy together with the corresponding laws of any other applicable jurisdiction in which the Services are provided or received."Dispute" shall have the meaning set forth in Section 7.1.

4 Note to Form: required for LATAM Distribution Agreement only

"Distribution Date" shall have the meaning given to it in the Separation and Distribution Agreement.

"Distributor" shall have the meaning set forth in the Preamble.

"Distributor ERP System" means those information technology systems and platforms selected by Distributor, in its sole discretion acting reasonably for use in connection with the performance of Services.

"Excluded Services" means those applications, services, functions and reports specifically set forth in Schedule 4, except in each case aspects of such applications, services, functions and reports, if any, to the extent specifically set forth in the Services Schedule as of the date the Separation and Distribution Agreement is first executed by the parties thereto or in any other Ancillary Agreement.

"Field Action" shall have the meaning set forth in Section 10.1.

"Force Majeure Event" shall have the meaning set forth in Section 23.1.

"Governmental Authority" shall have the meaning set forth in the Separation and Distribution Agreement.

"Guardrail" shall have the meaning set forth in Section 12.1.

"Interest Payment" shall have the meaning set forth in Section 11.2.1.

"Local Sub-Distributor" shall mean, for each Territory, each Affiliate of the Distributor that is listed in the "Local Sub-Distributor" column in the table set forth in Schedule 1.

"Local Services Agreement" shall mean each "Support Services Agreement" in each Territory, by and between the local Supplier Affiliate and Local Sub-Distributor for the provision of local support services.

"Losses" shall have the meaning set forth in the Separation and Distribution Agreement.

"LSA" shall mean that certain Logistics Services Agreement, dated as of [•], by and between Supplier and Distributor.

"Net Revenue" shall mean, with respect to a given month and in each Territory (as applicable), the total net revenue of the applicable Local Sub-Distributor in connection with any Products for such month, calculated in accordance with United States GAAP as:

(a) the total gross revenue of the applicable Local Sub-Distributor with respect to the Products for such month in the relevant Territory, including (1) the total amount invoiced to customers (end-user or distributor), (2) any service fees or other amounts charged, or (3) freight, shipping, logistics or other costs charged, in each case (1)-(3) with respect to any Products for such month in the relevant Territory; minus

(b) provisions made for volume rebates, distributor chargebacks and payment term discounts, with respect to Products in such month, in each case, only to the extent such provision for returns, rebates or chargebacks are made in such month in the relevant Territory; plus or minus

(c) any product returns or debit or credit memos with respect to Products for such month in the relevant Territory, as applicable, in each case consistent with Supplier's generally applicable internal policies and practices, consistent with past practice;

provided that "Net Revenue" shall exclude: (x) any sales and value-added tax (VAT), and (y) accounts receivable tolerance write-offs, in each case (x) and (y) with respect to Products for such month in the relevant Territory.

"Non-Payment Notice" shall have the meaning set forth in Section 11.2.1.

"Party" and "Parties" shall have the meaning set forth in the Preamble.

"Person" means any individual, corporation (including any non-profit corporation), general partnership, limited partnership, limited liability partnership, joint venture, estate, trust or company (including any limited liability company or joint stock company) or other similar entity or Governmental Authority.

"Pre-Effective Date Distribution Form" shall have the meaning set forth in Section 4.4.1.

"Product(s)" shall mean the products as described in Schedule 3 that are supplied in each Territory, as applicable.

"Product Price" shall have the meaning set forth in Section 11.1.1.

"Purpose" shall have the meaning set forth in the Recitals.

"Reimbursable Costs" means, in each case without any mark-up, all shipping costs, selling costs, general administration costs, costs of sales, R&D services costs, costs of Sales and Promotion Services (as described in Schedule 2), fees payable under the Local Services Agreement and other income and expenses related to the SpinCo Business direct P&L, that are incurred by the Distributor directly, as allocated costs or as costs payable to a Third Party.

"Representative(s)" shall mean (a) with respect to Distributor, Distributor, its Affiliates and each of their respective officers, directors, employees, consultants, contractors and agents, in each case to the extent designated by Distributor to provide Services under this Agreement, and (b) with respect to Supplier, Supplier, its Affiliates and each of their respective officers, directors, employees, consultants, contractors and agents, in each case to the extent authorized to receive Services or to perform any obligations on behalf of Supplier pursuant to this Agreement.

"Return" shall mean, with respect to any Services in the Territories, an amount equal to the percentage of Net Revenue for such Territory, as set out in Schedule 1 for each Territory.

"Separation and Distribution Agreement" shall mean that certain Separation and Distribution Agreement to be entered into by and between Becton, Dickinson and Company and Embecta Corp.

"Services" shall mean all services to be provided to Supplier as described on the Services Schedule or as added to the Services Schedule pursuant to Section 4.6.

"Services Schedule" shall mean the schedule attached hereto as Schedule 2.

"Set-Up Costs" shall have the meaning set forth in Section 4.1.

"SpinCo Business" shall have the meaning set forth in the Separation and Distribution Agreement.

"Supplier" shall have the meaning set forth in the Preamble.

"Subdistributor" shall have the meaning set forth in Section 14.1.

"Term" shall have the meaning set forth in Section 3.1.

"Territory" shall mean each territory identified in Schedule 1, and for the purpose of any early termination in accordance with Section 20 "Territory" shall mean each of LATAM and CASAJ (as applicable).

"Third Party" means any Person other than Distributor, Supplier or their respective Affiliates.

"Transition Plans" shall have the meaning set forth in Section 3.2.2.

"True-Up" shall have the meaning set forth in Section 11.1.2(a).

"True-Up Amount" shall have the meaning set forth in Section 11.1.2(a).

"Warranties" shall have the meaning set forth in Section 8.4.

"Withholding Agent" shall have the meaning set forth in Section 11.4.2.1.

2. APPOINTMENT

2.1 Subject to the terms and conditions of this Agreement, Supplier, on behalf of itself and its Affiliates, hereby (i) grants to Distributor and its applicable Local Sub-Distributor the right to distribute the Products in the Territories, and (ii) appoints Distributor and its applicable Local Sub-Distributor, in each case as their distributor with respect to such Services for the Products in the applicable Territory, in each case as described in Schedule 1 and on the terms and conditions set forth in this Agreement. This Agreement does not give Distributor any right to, or to authorize any Subdistributor to, manufacture, assemble, or in any other way produce the Products.

3. TERM

3.1 This Agreement shall commence on the Commencement Date and terminate on the second (2nd) anniversary of the Commencement Date (the "Term"), unless terminated earlier under Section 20.

3.2 Transition Plan.

3.2.1 Each Party shall use diligent, concerted and commercially reasonable efforts to cause Supplier to transition off of the provision of the Services in each Territory (including by transitioning to an alternative arrangement with respect to the Products in such Territory, if applicable) as promptly as possible, but in no event later than the end of the applicable Term. The Parties shall transition responsibility for the performance of Services to Supplier in a manner that minimizes, to the extent reasonably possible, disruption to the SpinCo Business and the continuing operations of Distributor and its relevant Affiliates, including in relation to orders for Products placed by customers up to the effective date of the expiration or termination of this Agreement. For the avoidance of doubt Supplier shall be primarily responsible with respect to transitioning off of the provision of Services in each Territory. Distributor shall have no obligation hereunder to perform (or procure that its Affiliates perform) any Services following the Term. The Parties acknowledge and agree that time is of the essence with respect to the foregoing in this Section 3.2.1.

3.2.2 In furtherance of Section 3.2.1, Supplier shall use commercially reasonable efforts to set forth the steps required to transfer the Services in each Territory to Supplier, a successor distributor and/or a logistics services provider in a written transition plan or plans with respect to such Territory (the "Transition Plans"). The Supplier shall use its commercially reasonable efforts to develop the Transition Plans within six (6) months after the Distribution Date and Distributor shall reasonably consult with Supplier in

preparation thereof. In furtherance of the foregoing, Distributor shall provide to Supplier information reasonably requested by Supplier that is necessary for Supplier to develop the Transition Plans, and the Parties shall reasonably cooperate with respect to the development of the Transition Plans (including through the Distributor Functional Leads and Supplier Functional Leads).

3.2.3 Without limitation to and subject to Section 3.2.2, the Parties will reasonably cooperate in an effort to agree in writing with respect to reasonable Transition Plans, and if the Parties agree in writing to such Transition Plans, then the Parties shall each use commercially reasonable efforts to undertake the activities expressly delegated to and agreed to by such Party in such Transition Plans. To the extent support is required by the Distributor in a material respect for the purposes of implementation of the Transition Plan, Distributor will be reimbursed for those services at an agreed upon hourly rate, unless otherwise provided for in such Transition Plan.

3.2.4 Distributor shall reasonably cooperate with Supplier with respect to efforts by Supplier to obtain new or replacement contracts with respect to Services as it concerns Third Party vendors with which Distributor has commercial relationships with respect to such Services; provided, that for the avoidance of doubt Supplier shall be primarily responsible with respect to obtaining such new or replacement contracts.

4. DESCRIPTION OF SERVICES

4.1 Subject to the terms and conditions of this Agreement, Distributor will use commercially reasonable efforts to provide or cause its Affiliates to provide such Services to Supplier and its Affiliates during the Term. Each Service shall be provided and accepted in accordance with the terms, limitations and conditions set forth herein and in the Services Schedule. Except as already performed by Parent and paid for by SpinCo under an Ancillary Agreement that covers the Services provided hereunder, or as otherwise expressly provided herein, with respect to an applicable Service, if any set up charge or any other similar costs reasonably necessary for the commencement of such Service for the Territory in accordance with the terms hereof are required ("Set-Up Costs"), such Set-Up Costs shall be the responsibility of the Supplier and such charges and costs shall be deemed to be "Reimbursable Costs" hereunder and deducted as part of the True-Up in accordance with Section 11.1.2.

4.2 Schedules and Precedence. This Agreement shall govern the provision of Services. Except with respect to any limitations on the Services set forth in this Agreement, if there is any inconsistency between the terms of the Services Schedule and the terms of the main body of this Agreement (i) the terms of the Services Schedule shall govern with respect to the provision of a specific Service (including pricing, term, technical or operational matters) and (ii) the main body of this Agreement shall govern for legal terms and conditions.

4.3 Information. Unless otherwise mutually agreed by the Parties, the Services Schedule and any amendments thereto shall set forth, at a minimum, the following information for each listed Service:

(a) a description of the Service to be provided; and

(b) any other terms uniquely applicable to such Service.

4.4 Nature of Services.

4.4.1 Unless otherwise expressly set forth in the Services Schedule, for each Territory Distributor shall perform the Services in substantially the same form and at a relative level of service that such Services were performed internally by or on behalf of Distributor (or for Services provided by a Third Party, if applicable, the form consistent with the requirements of the Third Party contract under which such Service was last provided before the Commencement Date by a Third Party) with respect to the SpinCo Business in the twelve (12) months prior to the Commencement Date to the extent transacted through the Distributor ERP System, in each case with respect to, without limitation, quality, availability and volume (as may be increased to take into account the hiring of employees to operate the SpinCo Business as of the Commencement Date and increases in volume reasonably attributable to the organic growth of the SpinCo Business following the Commencement Date); provided, however, that such performance shall at a minimum be at no lesser standard of quality generally consistent with the services or arrangements Distributor provides to its own Affiliates (collectively, the "Pre-Effective Date Distribution Form"). Notwithstanding the foregoing, Distributor may change a Pre-Effective Date Distribution Form solely to the extent (a) any change in nature, scope or performance levels is agreed in writing by the Parties from time-to-time during the Term of this Agreement, (b) of any restrictions imposed on Distributor by applicable Law or regulation, in which case any such change shall be to the minimum extent necessary, as determined by Distributor in its reasonable discretion, such that Distributor can provide such Service in compliance with applicable Law or regulation, (c) any changes in the nature, scope and performance levels of such Service are necessitated by the Separation and Distribution (as both terms are defined in the Separation and Distribution Agreement), or the organic growth of the SpinCo Business during the Term, (d) any modification in process for providing Services are necessitated by the extraction of the SpinCo Business from Distributor's continuing operations and (e) required by any contractual obligations owed by Distributor to any Third Party(ies) with respect to Services provided by, from or through such Third Party(ies) hereunder. Regarding the changes described in the previous sentence, Distributor shall implement such changes in a commercially reasonable manner that, where practical, is consistent with the practices performed internally by or on behalf of Distributor with respect to the SpinCo Business in the twelve (12) months prior to the Commencement Date. For the avoidance of doubt, in providing the Services, Distributor may use any information systems, hardware, software, processes and procedures it deems necessary or desirable in its reasonable discretion, provided that (i) Distributor shall provide notice to Supplier with respect to material changes by Distributor to any such systems, hardware, software, processes and procedures, if any, that are made solely with respect to Supplier (and not similar services for itself or its Affiliates), in which case, Distributor shall use commercially reasonable efforts to make such changes in a manner that does not cause Supplier to incur increased costs hereunder and shall notify Supplier in advance if such changes will result in a material increase in costs, and (ii) any changes by Distributor to any such systems, hardware, software, processes and procedures, will not be made in a manner that adversely affects in any material respect the ability of Distributor to comply with its obligations to provide the Services in the Pre-Effective Date Distribution Form to the extent required above in this Section 4.4.1.

4.4.2 To the extent Distributor fails to provide Services in accordance with the terms of this Agreement, Distributor shall as soon as practicable correct the non-conforming portion of such Services such that it can provide such Service in the Pre-Effective Date Distribution Form to the extent required by Section 4.4.1, in each case at no extra charge or cost to Supplier.

4.4.3 Distributor will use commercially reasonable efforts in the performance of the Services and its duties and obligations hereunder with the same degree of care, skill and prudence customarily exercised when engaging in similar activities for itself and, without limitation, Distributor will use commercially reasonable efforts to provide the Services in accordance with the service standards set forth in this Section 4.4.

4.4.4 WITHOUT LIMITING THE OBLIGATIONS SET OUT IN SECTION 4.4.1, AND WITHOUT LIMITING ANY REPRESENTATION OR WARRANTY IN THE SEPARATION AND DISTRIBUTION AGREEMENT, (i) ALL SERVICES PERFORMED AND THE DISTRIBUTOR ERP SYSTEM PROVIDED BY DISTRIBUTOR HEREUNDER ARE PERFORMED, PROVIDED, AND MADE AVAILABLE ON AN "AS IS" AND "WITH ALL FAULTS" BASIS, AND (ii) DISTRIBUTOR DOES NOT MAKE, AND HEREBY DISCLAIMS, ANY AND ALL OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUIET ENJOYMENT, NONINFRINGEMENT AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE.

4.5 Service Limitations.

4.5.1 Notwithstanding any provision of this Agreement to the contrary:

(a) except as and to the extent necessary for the receipt of any Services by Supplier, any arrangements provided under and subject to the other Ancillary Agreements, Distributor shall have no obligation to provide Supplier with access to or use of any Distributor information technology systems, information technology, platforms, networks, applications, software databases or computer hardware;

(b) Distributor shall have no obligation to provide Supplier with any Excluded Services and Distributor shall not be obligated to provide and shall not be deemed to be providing any advisory services (including advice with respect to legal, financial, accounting, insurance, regulatory or tax matters) to Supplier or any of its Representatives as part of or in connection with the Services or otherwise;

(c) Distributor shall have no obligation, unless to the extent necessary to provide the Services, and without limiting, for clarity, Section 10.1, to prepare or deliver any notification or report to any Governmental Authority or other Person on behalf of Supplier or any of its Representatives; and

(d) in no event shall Distributor or its Affiliates have any obligation to favor Supplier or any of its Affiliates' operation of the SpinCo Business over its own business operations or those of its Affiliates.

4.5.2 Notwithstanding any provision of this Agreement to the contrary, Distributor shall not be required to:

(a) perform any Service or provide access to or use of any part of the Distributor ERP System in any manner that violates or contravenes any restrictions imposed on Distributor by applicable Law or regulation;

(b) perform any Service or provide access to or use of any part of the Distributor ERP System in any manner that breaches or contravenes any contractual obligations owed by Distributor to any Third Party(ies). Distributor will provide written notice to Supplier to the extent any such Third Party contractual obligation will materially impact the provision of applicable Services hereunder (or change the cost thereof);

(c) hire any additional employees, maintain the employment of any one or more specific employees, or purchase, lease or license any additional equipment, software (including additional seats or instances under existing software license agreements) or other resources (in each case in this Section 4.5.2(c) subject to Distributor's compliance with its obligations to provide the applicable Services in the Pre-Effective Date Distribution Form to the extent required by Section 4.4.1); or

(d) bear or pay any costs related to the conversion of the Supplier's data at the Supplier's request without limiting, for clarity, Sections 4.4.1 and 4.7.

4.5.3 Distributor shall have no obligation to provide data migration support including any data extraction, data cleansing or data insertion, with respect to historical or transactional data except as and to the extent set forth in this Section 4.5.3 or as and to the extent otherwise expressly set forth herein or in another Ancillary Agreement. Notwithstanding the foregoing, Distributor shall (i) provide master data (including product master data, vendor master data, customer master data, materials master data, and employee master data) in the form and format that it exists on the Distributor ERP System (or in another format readily convertible by Distributor if reasonably requested by Supplier) related to the SpinCo Business and reasonably necessary for Supplier to set up its own systems with such data for purposes of operating the SpinCo Business, (ii) provide reasonable access to Supplier with respect to reasonable and specific requests for historical data and reports (including historical and legacy contracts and legal claims matters) to the extent related to the SpinCo Business, if such data and reports are maintained in a form and manner that access can be readily provided by Distributor, and (iii) consider in good faith reasonable and specific requests by Supplier with respect to other data, if any, reasonably necessary for use by Supplier in the SpinCo Business at Supplier's cost.

4.5.4 Distributor shall have the right to shut down temporarily for maintenance or similar purposes the operation of the Distributor ERP System or any other facilities or systems of Distributor or its Affiliates providing any Service whenever in Distributor's reasonable judgment such action is necessary or advisable for general maintenance or emergency purposes; provided that without limiting the immediately following sentence, Distributor will schedule non-emergency general maintenance impacting the Services so as not to materially disrupt the operation of the SpinCo Business by Supplier. Distributor will give Supplier reasonable advance notice of any such shut down for general maintenance purposes or other planned shut down.

4.5.5 Distributor will be excused from performing any portion of a Service under this Agreement to the extent that, and solely for so long as, it is actually prevented from performing such portion of such Service as a result of Supplier's or any of its Representatives' failure to comply with Supplier's obligations set forth in Section 6. The Parties will use commercially reasonable efforts to cooperate to agree upon steps to be taken by Supplier to address and mitigate such adverse effect, and to the extent reasonably practicable the Services will resume in accordance with the terms hereof upon such mitigation.

4.6 Additional Services. Supplier may, within ninety (90) days following the Distribution Date, identify in writing to Distributor additional services related to the Purpose that (i) Distributor and its Affiliates (other than Supplier and its Affiliates) have been providing or have provided in such Territory in connection with the ordinary course of operation of the SpinCo Business in the twelve (12) months prior to the Commencement Date or otherwise are necessary to physically and logically separate the operations and the systems of the SpinCo Business from Distributor, (ii) are not described in the Services Schedule and are not, for clarity, Excluded Services hereunder or described in the Transition Services Agreement, and are not otherwise capable of constituting Services, Additional Services or Excluded Services, under the Transition Services Agreement and (iii) are necessary for the Supplier and its Affiliates to continue to conduct the SpinCo Business from and after the Commencement Date (collectively, except for the Excluded Services, the "Additional Services"). If Distributor has the necessary assets, rights and resources to reasonably provide such Additional Services, and Supplier is not reasonably in a position to provide such Additional Services or obtain such Additional Services from a Third Party on the same time frame as such services would be available from Distributor, then with the written approval of Distributor, not to be unreasonably withheld, conditioned or delayed, the Parties shall execute a written amendment to the then-current Services Schedule to reflect such Additional Service with respect to the applicable Territory(ies) and terms and conditions (which shall be reasonably agreed to by the Parties and otherwise shall be consistent with all terms, conditions and pricing applicable to the other Services hereunder, as applicable), and such Additional Service shall then be deemed a "Service" hereunder for the relevant Territory(ies).

4.7 Modifications. Subject in all cases to the provision of the Services in accordance with the service standards set forth in Section 4.4, the Distributor ERP System or other resources used by Distributor to provide the Services may be changed, altered or modified from time to time at Distributor's reasonable discretion. Without limiting the foregoing, Distributor may modify a Service to the extent the same modification (including with respect to the cost, scope, nature, performance levels, timing and quality of such Service) is made with respect to Distributor's provision of such Service to itself and its Affiliates, as applicable. Distributor shall inform Supplier reasonably in advance in writing of (a) any changes to the Services pursuant to this Section 4.7 and (b) any material changes to the Distributor ERP System or other resources used to provide the Services that may affect Supplier's operation of the SpinCo Business with respect to the Purpose. Subject to the preceding provisions of this Section 4.7, any change in the scope, nature, performance levels or duration of any Service described in or other amendment to the Services Schedule must be agreed by the Parties in writing and signed by the Parties.

4.8 Use of Services. For each Territory, Distributor shall not be required to provide the Services to any Person other than Supplier and its Affiliates, and shall not be required to provide Services in connection with anything other than the Supplier's or its Affiliates' use or operation of the SpinCo Business with respect to the Purpose after the Commencement Date. Supplier shall not, and shall not permit any of its Representatives to, resell any Services to any Third Party or permit the use of any Services by any Third Party.

5. OBLIGATIONS OF DISTRIBUTOR

5.1 Responsibilities of Distributor.

5.1.1 Distributor shall maintain sufficient resources necessary to maintain all necessary Governmental Approvals to, and shall otherwise maintain sufficient resources to, perform its obligations hereunder in accordance with the terms hereof, including in accordance with the Pre-Effective Date Distribution Form applicable thereto. Without limiting the foregoing, with respect to product registrations, Distributor shall satisfy the obligations set forth in Section 10.4.

5.1.2 Without limiting any of its rights or obligations set forth in this Agreement Distributor shall:

(a) provide technical assistance and training to Supplier personnel to the extent specified in the Services Schedule.

(b) notify Supplier of problems with the Supplier's work environment that might interfere with the provision of Services hereunder.

(c) perform its obligations under this Agreement in a manner consistent with all legal requirements applicable to Distributor in its capacity as a provider of Services to the Supplier.

5.1.3 Distributor shall provide Supplier and its Representatives with information and documentation reasonably requested by Supplier that is reasonably necessary for Supplier to receive Services hereunder, to perform its obligations hereunder and to transition off the Services in accordance with Section 3.2, subject in each case to reasonable confidentiality, security and privacy controls, policies and procedures imposed by Distributor.

5.1.4 Distributor shall, during normal business hours and with reasonable prior notice, make available, as reasonably requested by Supplier, reasonable access to personnel and provide timely decisions reasonably requested by Supplier in order that Supplier may timely transition off the Services in accordance with Section 3.2.

5.1.5 In performing its obligations under this Agreement, Distributor shall comply with its obligations under the Data Protection Laws and shall not do or permit anything to be done which might cause or result in a breach by Supplier of the Data Protection Laws. If either Party concludes, at any time, that a data processing agreement is required in connection with the performance of any activities under this Agreement, it shall notify the other Party and the Parties shall agree and enter into reasonable terms in this respect.

6. OBLIGATIONS OF SUPPLIER

6.1 Certain Supplier Responsibilities. Without limiting Section 6.2, the Supplier shall be responsible for and shall perform or cause to be performed the activities set forth on Schedule 5. The Parties understand and agree that, notwithstanding anything to the contrary herein and without limiting Section 2, Distributor's sole responsibility hereunder is to provide the Services hereunder on behalf of and for the benefit of Supplier, as set forth herein, in each case without limiting either Party's rights or obligations under the Separation and Distribution Agreement or any other Ancillary Agreement.

6.2 Other Responsibilities of Supplier.

6.2.1 With respect to the Purpose, following the relevant Commencement Date, Supplier shall, for each Territory, (i) exercise ultimate control over the operation of the SpinCo Business, except to the extent of the Services, and (ii) be solely responsible for the operation of the SpinCo Business in accordance with all applicable Laws and regulations, except to the extent of the Services (and without limiting the services provided under the Transition Services Agreement).

6.2.2 Supplier shall, during normal business hours (or as may otherwise be expressly required to deliver a Service) and with reasonable prior notice, provide Distributor and its Representatives with access to its facilities as is reasonably necessary for Distributor to perform the Services and provide Distributor and its Representatives access to any systems or software applications that Distributor and its Representatives are obligated to provide hereunder.

6.2.3 Supplier shall provide Distributor and its Representatives with information and documentation reasonably requested by Distributor that is reasonably necessary for Distributor to perform the Services and provide access to the Distributor ERP System it is obligated to provide hereunder, subject in each case to reasonable confidentiality, security and privacy controls, policies and procedures imposed by Supplier.

6.2.4 Supplier shall, during normal business hours and with reasonable prior notice, make available, as reasonably requested by Distributor, reasonable access to personnel and provide timely decisions reasonably requested by Distributor in order that Distributor may perform its obligations hereunder.

6.2.5 Supplier acknowledges and agrees that certain of the Services to be provided hereunder were previously performed for Distributor or its Affiliates by individuals who may no longer be employed by Distributor or its Affiliates as a result of the Separation and Distribution Agreement and that the provision of the Services to Supplier may require Distributor's reasonable access to, or support from, Supplier's relevant employees.

6.2.6 Except for Services and Distributor ERP System expressly required to be provided by Distributor under this Agreement, Supplier shall be solely responsible for: (a) the selection, acquisition and maintenance of any and all Third Party products or services used by Suppliers; (b) all implementation, maintenance and support concerning such Third Party products and services; and (c) all costs associated with the activities described in clauses (a) and (b), above. Except as expressly set forth in this Agreement, Distributor shall have no obligation to acquire, host, maintain or otherwise support any such Third Party products or services.

6.2.7 Supplier is and shall remain solely responsible for the content, accuracy and adequacy of all data that Supplier, its Representatives transmit or have transmitted to Distributor for processing or use in connection with the performance of Services.

6.2.8 Supplier shall comply, and shall cause its Representatives to comply, with all applicable legal requirements in connection with their respective operations and obligations under this Agreement, including the receipt and use of the Services.

6.2.9 In performing its obligations under this Agreement, Supplier shall comply with its obligations under the Data Protection Laws and shall not do or permit anything to be done which might cause or result in a breach by Distributor of the Data Protection Laws.

6.2.10 Supplier shall maintain sufficient resources to perform its obligations hereunder in accordance with the terms hereof, including, for clarity, maintaining adequate staffing levels, including in accordance with the Pre-Effective Date Distribution Form applicable thereto. Without limiting the foregoing, with respect to product registrations, Supplier shall satisfy the obligations set forth in Section 10.4.

6.2.11 Mutual Responsibilities. The Parties will reasonably cooperate with each other in all matters relating to the provision and receipt of Services. Such cooperation shall include:

(a) exchanging information relevant to the provision of Services hereunder;

(b) reasonable efforts to mitigate problems with the work environment interfering with the Services; and

(c) each Party requiring its personnel to obey any security regulations and other published policies of the other Party while on the other Party's premises which have been made available to the Party

6.2.12 Mutual Responsibilities for Governmental Approvals. Without limiting Section 6.2.11 or Section 10.4, the Parties will reasonably cooperate with each other with respect to maintaining such Governmental Approvals (other than product registrations) of each Party as are necessary for the distribution of the Products and provision and receipt of the Services with respect to each Territory hereunder, including by making such filings and taking such other commercially reasonable actions required under applicable Laws therefor.

7. DISPUTES

7.1 In the event of any controversy, dispute or claim (a "Dispute") arising out of or relating to any Party's rights or obligations under this Agreement (whether arising in contract, tort or otherwise), calculation or allocation of the costs of any Service or otherwise arising out of or relating in any way to this Agreement (including the interpretation or validity of this Agreement), such Dispute shall be resolved in accordance with the dispute resolution process referred to in Article VII of the Separation and Distribution Agreement.

7.2 In any Dispute regarding the True-Up Amount, if such Dispute is finally resolved pursuant to the dispute resolution process set forth or referred to in Section 7.1 and it is determined that the True-Up Amount that has been invoiced by one Party to the other Party (and that the Party receiving the invoice has paid to the other Party) is greater or less than the amount that the True-Up Amount should have been, then (i) if it is determined that the Party that received the invoice has overpaid the True-Up Amount then the other Party shall within ten (10) calendar days after such determination reimburse the Party that has overpaid an amount of cash equal to such overpayment, plus the Interest Payment, accruing from the date of payment by the Party that has overpaid to the time of reimbursement to them; and (ii) if it is determined that a Party has underpaid the True-Up Amount then they shall within ten (10) calendar days after such determination reimburse the other Party an amount of cash equal to such underpayment, plus the Interest Payment, accruing from the date such payment originally should have been made by the Party that has underpaid to the time of payment of the reimbursement.

8. INVENTORY; CUSTOMER AGREEMENTS

8.1 Inventory.

8.1.1 The Supplier shall manage demand and supply inventory planning and share these plans with the Distributor.

8.1.2 Each month, the Supplier shall provide the Distributor, at a minimum, twelve (12) month rolling inventory forecasts (including monthly volume and inventory requirements).

8.1.3 The Distributor and Supplier agree to mutually rectify back orders, but the Distributor is not financially obligated to compensate the Supplier for back orders for Products, unless such back order is a result of Distributor or its Affiliates' physical inability to manage inventory volumes or warehousing or any other physical actions of Distributor or its Affiliates within their control that are not related to the Distributor ERP System or any actions of Supplier or any Supplier Affiliates.

8.1.4 The Parties acknowledge that there is inventory of Products in each Territory as of the Commencement Date (such inventory in such Territory, the "Opening Inventory"). The relevant Distributor Affiliate shall retain title to the Opening Inventory until the Product is delivered to the end customer or Subdistributor.

8.1.5 Upon expiration or termination of this Agreement, Supplier or any of its Affiliates in the applicable Territory on an ex-works basis (Incoterms 2020) must repurchase from Distributor or the applicable Distributor Affiliate all unused and undamaged Products in stock for the Product Price paid by Distributor (or any Distributor Affiliate) to Supplier (or any Supplier Affiliate) for such Products, plus any freight, insurance (minus any recoveries on such insurance), non-recoverable duty, or other non-recoverable importation cost incurred by the Distributor in respect of such Products (collectively, the "Final Inventory Repurchase Obligation Amount"), less the full Opening Inventory as of the Commencement Date at the Product Price (the net amount of such payment obligation, the "Final Inventory Repurchase Balance"). For clarity, if the Final Inventory Repurchase Balance is a positive number, then Supplier or Supplier Affiliate shall pay the Final Inventory Repurchase Balance to Distributor or Distributor Affiliate, and if the Final Inventory Repurchase Balance is a negative number, then Distributor or Distributor Affiliate shall pay the Final Inventory Repurchase Balance to Supplier or Supplier Affiliate. Upon mutual written agreement of the Parties, the Parties may elect to set off payment of the Final Inventory Repurchase Balance pursuant to this Section 8.1.5 with payment of the True-Up Amount in connection with the final True-Up under Section 11.1.2(a).

8.2 The Parties acknowledge and agree that there are and will continue during the Term to be, distribution and other contracts in place between Distributor and certain Supplier customers that pre-date the Commencement Date ("Customer Agreements") and that, for expediency and administrative convenience, the Parties have agreed not to amend those contracts to reflect the terms of this Agreement, but rather to address such issues as between themselves in this Agreement. Accordingly, Supplier hereby agrees that the terms set forth in each Customer Agreement shall be the terms under which Supplier provides the applicable Products and services related thereto to each such customer during the Term.

8.3 Following the Commencement Date, for new and amended contracts with Supplier's customers or local distributors (as applicable) with respect to any Products or under which any Services will be provided, Supplier will consult with Distributor and the Parties will work together in good faith to determine what level of service can be provided by Distributor and whether such service will have an effect on the fees under this Agreement, including as described on Schedule 2, and Supplier shall ensure that any such contracts are consistent with the terms and conditions of this Agreement during the Term.

8.4 Supplier will bear sole responsibility for all warranties associated with the Products ("Warranties"), and Supplier will promptly reimburse Distributor for any costs incurred by or on behalf of Distributor or its Representatives in connection therewith. Without limiting the foregoing, Supplier will maintain the terms of the Warranties as they exist as of the Commencement Date for so long as Distributor continues to have obligations under such Warranties, and thereafter Supplier will notify Distributor of any changes to such Warranties not less than thirty (30) days prior to offering the same to customers or Subdistributors (as applicable).

9. ACCESS TO FACILITIES

9.1 Access to Facilities. Prior to one Party allowing any of the other Party's Representatives ("Personnel") to enter onto any premises owned, controlled or operated by such Party, that Party may require such Personnel to enter into confidentiality agreements to protect its Confidential Information and contain provisions that are consistent with the provisions of Section 22 of this Agreement. Each Party shall cause all Personnel to comply with all reasonable instructions and policies of the other Party made available while at any premises owned, controlled or operated by such Party, and each Party shall have the right to remove any Personnel of the other Party from any such premises for failure to comply with this Agreement or any such instructions or policies. Notwithstanding the foregoing, this Section 9.1 shall not limit any access to premises provided under the Transition Services Agreement or any lease between Distributor (or its Affiliates) and Supplier (or its Affiliates), in each case subject to the terms and conditions thereof.

10. FIELD ACTIONS; PRODUCT REGISTRATIONS

10.1 Field Actions. For each Territory Supplier shall have the sole discretion and responsibility to effect and control any recall, withdrawal, or field correction (a "Field Action") with respect to any Product sold on or after the Commencement Date. In connection with a Field Action, Distributor (or such of its Affiliates that holds the product registration with respect to such Product at the time of such Field Action, as applicable) shall reasonably cooperate with responding to Supplier's requests for information or other assistance, and in otherwise effecting such Field Action by Supplier, and, for clarity, Distributor shall have the right to take any actions as may be necessary or appropriate in connection with applicable Laws in the Territories upon good faith advance communication to Supplier and using commercially reasonable methods (including costs and expenses in furtherance of such methods), in each case at the Supplier's cost. For clarity, solely with respect to such actions in the applicable Territory in connection with a Field Action that Supplier, the Supplier Affiliates and their respective agents (other than Distributor or Distributor Affiliates) are prohibited from taking and Distributor or a Distributor Affiliate is required to take pursuant to applicable Laws, the Parties shall cooperate with respect thereto, and Supplier shall reasonably assist Distributor or the Distributor Affiliate to take such actions, and any costs and expenses associated with such discussed and agreed upon actions shall be borne by Supplier. Supplier shall consult with Distributor before issuing any press release or otherwise making any public statement regarding any Field Action that references or implicates Distributor or any of its Affiliates. Supplier shall be responsible for communicating with any Governmental Authorities in connection with a Field Action, and

Distributor (or such of its Affiliates that holds the product registration with respect to such Product at the time of such Field Action, as applicable) shall reasonably cooperate with Supplier to facilitate such communications (including by communicating directly with the applicable Governmental Authority to the extent so required). Supplier shall bear the costs and expenses to the extent incurred by it and by Distributor or any of its Affiliates in connection with any such Field Action.

10.2 Regulatory Compliance. Both Parties agree to comply with all applicable Laws in connection with the ordering, purchase, supply, distribution and sale of the Products, including all import/export Laws, and restrictions and regulations of the United States Department of State, United States Department of Commerce or other Governmental Authority and any applicable Law relating to foreign exchange transactions.

10.3 Quality Agreement. To the extent required by applicable Law or if otherwise agreed, the Parties shall negotiate and enter into a separate quality agreements.

10.4 Product Registrations. Notwithstanding anything to the contrary herein, and, for clarity, without limiting the Transition Services Agreement, any obligations of Distributor with respect to obtaining, maintaining, renewing or modifying any product registration shall be set out in the Transition Services Agreement, except as expressly set forth in the next sentence. For clarity, except as set forth in the LSA or Transition Services Agreement, solely with respect to any product registration for the Products in the Territories hereunder which cannot be transferred from Distributor or a Distributor Affiliate to Supplier or a Supplier Affiliate and which Supplier or a Supplier Affiliate is not permitted under applicable Law to obtain, maintain or renew in its own name, Supplier shall perform all actions required to prepare such filings as are necessary to obtain, maintain or renew such product registration (as defined in the Transition Services Agreement) and Distributor shall make such filings in Distributor's or a Distributor Affiliate's name, in each case at Supplier's sole cost and expense.

10.5 New Branding. Any support for the set up of master data for new branding of Supplier or its Affiliates in the Distributor ERP System with respect to any Products shall be agreed between the Parties in writing, and any such newly branded Products shall not constitute or be deemed to be "Products" hereunder unless and until Distributor has approved the same in writing. For the avoidance of doubt, any new branding shall not apply to invoice forms and business stationery of Distributor.

10.6 Distributor shall continue to maintain a recovery plan to ensure the continuity of Services in case of natural disasters, serious weather conditions, power failures, fires, national emergencies, or any other catastrophic event that is consistent with the recovery plan that the Distributor has in place with respect to the SpinCo Business in the twelve (12) months prior to the Commencement Date.

11. PRODUCT PRICE, REIMBURSABLE COSTS AND PAYMENT TERMS

11.1 Product Price.

11.1.1 Product Price. Distributor shall pay to Supplier the applicable price for each of the Products with respect to the applicable Territory that Distributor purchases from Supplier hereunder in accordance with the relevant provisions of the LSA (such price, with respect to such Product and Territory, the "Product Price").

11.1.2 Monthly Price Reviews and True-Up.

(a) The Parties shall conduct reviews on a monthly basis to reconcile differences between the economic benefit the Parties would otherwise have received in the Territories under the charging model set out in Schedule 1 and the actual economic benefit over the course of the month, including factoring in Product Prices, Reimbursable Costs, the Return, and prices to customers and Subdistributors. There will be a monthly true-up payment to reconcile this difference ("True-Up"), provided that upon mutual written agreement of the Parties, the Parties may elect to conduct True-Ups payments at different intervals. The Party which received an economic benefit in excess of what it would have otherwise received under the charging model under the LSA for the applicable period, shall pay to the other Party an amount equal to such excess amount (the "True-Up Amount"). Without limiting the foregoing, promptly following the expiration or termination of this Agreement with respect to any one or more Territories, the Parties shall conduct the foregoing review and the True-Up Amount shall be paid by the applicable Party with respect to the period since the last True-Up.

(b) In connection with the monthly review and True-Up processes, upon a Party's reasonable request, each Party shall provide reasonable documentation in its possession to support the amount of Reimbursable Costs, Product Prices, Return, prices to customers and Subdistributors and other amounts to the extent reasonably necessary to conduct such processes, and the Parties shall otherwise reasonably cooperate in connection therewith.

11.1.3 To the extent not prohibited by applicable Laws, Supplier may, upon reasonable written request to Distributor in connection with strategic purposes, provide Distributor a Product Price rebate or discount to be passed on to a customer or Subdistributor (as applicable) via a pre-determined discounted sales agreement between such customer or Subdistributor (as applicable) and Distributor. The Product Price rebate or discount provided by Supplier to Distributor will be in an amount appropriate to preserve Distributor's economic benefit consistent with the Product Price. The rebate or discount shall be deducted from the applicable invoices for such Products under Section 11.2. In the event of a rebate or discount, Distributor shall not be required to provide pricing to an end customer or a Subdistributor that is below the cost-of-goods for the Product borne by Supplier or that has a material adverse effect on the Parent Business, given all relevant circumstances.

11.2 Invoicing and Payment Terms.

11.2.1 Supplier shall invoice Distributor directly for the True-Up Amount any time that the True-Up process is undertaken which results in Distributor owing the True-Up Amount to Supplier in accordance with Section 11.1.2(a). Distributor shall invoice Supplier for the True-Up Amount any time that the True-Up process is undertaken which results in Supplier owing the True-Up Amount to Distributor in accordance with Section 11.1.2(a). Distributor shall pay Supplier an amount equal to the True-Up Amount (where applicable), by the twenty-fifth (25th) day of each month for any invoice received prior to that day in the same month. Supplier shall pay Distributor (where applicable), an amount equal to the True-Up Amount (where applicable) by the twenty-fifth (25th) day of each month for any invoice received prior to that day in the same month. If payment is not made by the twenty-fifth (25th) day of the month, the invoicing Party may send notice of non-payment: (i) where the invoiced Party is the Distributor, to the Senior Vice President for Finance, Business Units of Becton, Dickinson And Company; and (ii) where the invoiced Party is the Supplier, to the Treasurer of Embecta Corp. (a "Non-Payment Notice"). Late payments shall bear interest at 8% per annum for all undisputed amounts not paid within ten (10) days from receipt of a Non-Payment Notice therefor (or such lesser rate which is the maximum rate allowed by law) (the "Interest Payment"). Failure to pay undisputed amounts due hereunder within sixty (60) days from receipt of a Non-Payment Notice therefor pursuant to the terms of this Agreement shall be a material breach and Supplier may terminate this Agreement with respect to the applicable Service for which such payment failure applies under Section 20.2 hereof (after the applicable cure period set forth therein).

11.2.2 Except as the Parties may expressly agree in writing, amounts due hereunder shall not be offset by amounts due or claims under any other agreement.

11.3 Supporting Documentation of Reimbursable Costs

11.3.1 Upon Supplier's reasonable request, Distributor shall provide reasonable documentation (including a monthly statement of such costs) in its possession to support the amount of Reimbursable Costs, Set-Up Costs and/or other expenses charged in connection with the Services deducted from the Product Prices paid by Distributor to Supplier hereunder.

11.4 Taxes.

11.4.1 Pricing includes (i) all Taxes, including sales, use, VAT, consumption, excise, withholding or similar taxes (other than Taxes based on Distributor's net income) and all other governmental charges, including duties and other custom charges, that may apply to the transactions contemplated by this Agreement, and (ii) consideration for all necessary licenses and grants covered by this Agreement where no consideration has been expressly determined. Supplier shall be responsible for paying all such Taxes and other governmental charges. Distributor may collect such Taxes and governmental charges from Supplier as required by law.

11.4.2 Deductions or withholding.

11.4.2.1 If any amount of any payment under this Agreement is required to be deducted and withheld with respect to the making of such payment under any provision of applicable Law, the applicable Party (the "Withholding Agent") shall be entitled to deduct and withhold such amount as required by applicable Law, provided that prior to such withholding, the Withholding Agent shall give written notice of its intention to deduct and withhold and allow the other Party sufficient time to furnish any required documentation and forms to minimize or eliminate such withholding. The Withholding Agent shall pay all such withheld amounts to the applicable Governmental Authority. For the avoidance of doubt, the provisions of this Section 11.4 shall apply to Affiliates of Distributor and Supplier as if such Affiliate were Distributor or Supplier, as applicable.

11.4.2.2 Notwithstanding anything in this Agreement to the contrary, if any deductions or withholdings are required to be made by Supplier as aforesaid as a result of Supplier being organized in a jurisdiction that is different from Distributor, Supplier shall be obliged to pay to Distributor such amount as will, after the deduction or withholding has been made, leave Distributor with the same amount as it would have been entitled to receive in the absence of such requirement to make a deduction or withholding, provided that if Distributor subsequently receives a credit for such deduction or withholding for the taxable year in which the deduction or withholding was made, then Distributor shall promptly repay an amount equal to such credit up to the lower of:

(a) the amount previously paid by Supplier; or

(b) the amount which would put Distributor in the same position as if no deductions or withholdings had been required to be made in respect of the relevant payment to Distributor.

11.4.3 Notwithstanding any provision of this Agreement or the Separation and Distribution Agreement to the contrary, Supplier shall indemnify (in applicable local currency) Distributor and its Affiliates against all income Taxes required to be paid by Distributor, its Affiliates or its Representatives arising or resulting from a requirement under applicable local law that Distributor, its Affiliates or its Representatives take into account as its own income (to the extent not fully offset by corresponding deductions) amounts collected on behalf of Supplier in any jurisdiction.

12. GUARDRAILS

12.1 In order to avoid significant cost incurrence or loss by the Distributor or its Affiliates, and for purposes of maintaining adequate service levels and the Pre-Effective Date Distribution Form hereunder, and to retain the pricing terms set forth in Section 11 (which are in part based on space and resource requirements at current volumes), Supplier shall, and shall cause its Affiliates to, at all times during the term, ensure the volumes of all Products maintained in each Facility during each month of the Term, on a Facility-by-Facility basis, are within plus-or-minus twenty percent (+/- 20%) of the average inventory stock of the Products in such Facility over the twelve (12) month period immediately preceding the

Commencement Date (with respect to each such Facility, the "Guardrail"). For the avoidance of doubt, the "Suzhou 3" manufacturing plant will be the sole exception, with no guardrails in place with regards to minimum or maximum volume, in accordance with the agreement in place with respect to the "Suzhou 3" manufacturing plant. Without limiting the foregoing, if the Supplier becomes aware of circumstances (including, for clarity, inventory-level management) that could result in such volumes of Products at any Facility exceeding the applicable Guardrail therefor, Supplier will promptly notify Distributor thereof and the Parties will discuss in good faith potential operational adjustments to be mutually agreed in an effort to accommodate such volumes, provided that (i) the Supplier will bear all fees and costs associated therewith, which shall be deemed to be "Reimbursable Costs" hereunder and paid to Distributor in accordance with Section 11, (ii) such adjustments shall not create volume or space limitations on or otherwise adversely affect Distributor's or its Affiliates' businesses, and (iii) the Guardrail shall continue to apply except as and to the extent specifically agreed otherwise by the Parties in writing; provided further that, without limiting the foregoing clause (i), both Parties will use commercially reasonable efforts to mitigate any cost or loss that they may suffer or incur. For the avoidance of doubt, the Distributor shall not be obligated to place any purchase order for stocks or store or warehouse or hold buffer stocks that would exceed the Guardrail unless mutually agreed upon by both Parties.

12.2 For each Territory, Supplier shall provide to Distributor, on the Commencement Date, a detailed written assessment of volumes of Products and all storage requirements therefor with respect to each Facility, together with a written forecast of such volumes, reflecting Supplier's reasonable and good faith projections, with respect to each month during the initial twelve (12) months following the Commencement Date. Supplier shall update such forecast in writing to Distributor on a quarterly basis, reflecting Supplier's reasonable and good faith projections, with respect to each month during the twelve (12) months following the date of such update. Without limiting the foregoing, Supplier shall reasonably promptly notify Distributor in writing if Supplier plans to shift any material portion of volumes (*i.e.*, twenty percent (20%) or greater) of Product from any Territory to a different Territory or from any Facility to a different Facility.

12.3 For purposes of this Section 12, "Facility" shall mean each warehouse, distribution center or other facility used in connection with any Products hereunder.

12.4 Without limiting the foregoing, (i) to the extent Distributor requires a narrower Guardrail with respect to any Facility operated by Distributor than the plus-or-minus twenty percent (+/- 20%) threshold described above, such narrower Guardrail shall apply to such Facility, and (ii) Supplier shall reasonably cooperate to ensure that all volume, packaging, size and other similar requirements are adhered to and the same pricing tiers applicable immediately prior to the Commencement Date remain applicable at all times during the Term, taking into account the combined volumes of Products and any products of Distributor or its Affiliates that are stored at or pass through the relevant Facility.

13. RELATIONSHIP BETWEEN THE PARTIES

13.1 The Parties to this Agreement are and shall remain independent contractors and neither Party is an employee, agent, partner, franchisee or joint venturer of or with the other.

Each Party will be solely responsible for all actions or omissions of its employees and for any employment-related taxes, insurance premiums or other employment benefits respecting its employees. Neither Party shall hold itself out as an agent of the other and neither Party shall have the authority to bind the other.

14. PERFORMANCE BY REPRESENTATIVES

14.1 Without limiting Section 2, Distributor may engage one or more Affiliates (including Local Sub-Distributors), Third Parties or other Distributor Representatives (each a "Subdistributor") to perform all or any portion of the Distributor's duties under this Agreement, provided that (i) the Distributor remains responsible for the performance of such Distributor Representatives, and (ii) no such engagement, to the extent such Services are to be provided directly by Distributor pursuant to the Services Schedule, shall increase or result in additional charges for the Services, or fees or expenses, to Supplier or any of its Affiliates.

15. INSURANCE

15.1 The Parties may maintain, during the Term of this Agreement, such insurance policies or self-insurance as they deem appropriate, each for their own requirements.

15.2 If and to the extent that Supplier is unable to obtain insurance to cover its risk of loss with respect to the Products, upon reasonable written request of Supplier, Distributor shall attempt in good faith to obtain insurance under Distributor's existing policies to cover such risk of loss at Supplier's sole cost and expense (including any deductible of such insurance with respect to the Products), subject to the terms and conditions of such policies and without limiting Section 16.

16. TITLE AND RISK OF LOSS; RISK OF NON-PAYMENT

16.1 Except as otherwise expressly provided in this Section 16, as between the Parties, Supplier shall bear all risk of loss with respect to the Products and all risk of non-payment by customers with respect to the Products.

16.2 If any Product is damaged, lost or stolen while in a warehouse owned or controlled by Distributor or its Affiliates, as between the Parties, Distributor is responsible under this Agreement for such damage, theft or loss only to the extent the damage, theft or loss results from Distributor's or such Affiliate's gross negligence or willful misconduct. In the event Distributor is so responsible as provided in the immediately preceding sentence, Distributor's sole obligation and liability shall be to compensate Supplier at an amount equal to the replacement cost of such Product to the extent so damaged, stolen or lost. In the event Distributor is not so responsible, Supplier shall deduct the Product Price of the applicable Product from the invoice provided under Section 11.2.1 or, to the extent such invoice has been paid, promptly reimburse Distributor therefor.

16.3 Subject to Section 16.2, risk of loss shall transfer from the Supplier directly to the end customer or Subdistributor when the Products are delivered to such customer or Subdistributor in the local Territory. Title to the Products shall transfer from Supplier (or its Affiliate) to Distributor (or its Affiliate) at the time such Products are purchased by Distributor (or its Affiliate) from Supplier (or its Affiliate) hereunder.

16.4 For the avoidance of doubt and without limiting Sections 16.1 or 16.2, as between the Parties, Supplier's rights against Third Parties shall not be affected by the allocation of risk of loss as between the Parties set forth in the foregoing provisions of this Section 16. Distributor shall reasonably cooperate in good faith with Supplier, at Supplier's cost, to make claims under any applicable third party contract (e.g., carriers) with respect to (a) any damage, theft or other risk of loss with respect to the Products thereunder or (b) any non-performance, breach, default or other failure to provide services, in each case subject to the terms and conditions of such third party contract (including any allowances or other relevant thresholds thereunder).

17. SUPPLIER LIABILITY TO THIRD PARTIES

17.1 Third Party Consents. With respect to any Services which require a license or service provided by a Third Party (including through the sub-contracting of any relationship with any Third Party), to the extent the consent of a Third Party is needed for Distributor to provide any such Services to the Supplier and its Affiliates, then Distributor will use its reasonable best efforts to secure the consent of such Third Party to provide Supplier with access to such Third Party contract, license or service, as applicable, in accordance with the terms and conditions of this Agreement. Any costs with respect to securing any such consents shall be the responsibility of the Supplier to the extent required by such Third Party contract, license, service. To the extent a Third Party requires or requests that Distributor make any payment to the extent not required by the terms of the relevant contract, license, service in order to obtain a consent addressed by this Section 17.1, Distributor and Supplier shall jointly determine in good faith whether or not to negotiate and/or make such payment, and to the extent agreed, such payment shall be reimbursed by Supplier. If Distributor is unable to secure the consent of the applicable Third Party vendor using its reasonable best efforts, or if Supplier does not pay for the applicable consent, then, notwithstanding any provision of this Agreement or the Separation and Distribution Agreement to the contrary, Distributor shall have no obligation to provide the impacted Service, and the Parties shall reasonably cooperate in good faith to effect an alternate method of providing the Service to Supplier to the extent practicable.

18. INDEMNIFICATION

18.1 Supplier hereby agrees to indemnify, defend and hold harmless Distributor, its Affiliates, its Representatives and its and their respective officers, directors, agents, employees and Affiliates, from and against any and all Losses arising out of, relating to or resulting from (i) Supplier's or any of its Representative's gross negligence or willful misconduct relating to this Agreement, (ii) Supplier's or any of its Representative's breach of this Agreement, and (iii) any product liability or other claims by Third Parties with respect to any Products (other than with respect to the misuse of such Product by Distributor or to the extent covered by an indemnification obligation of Distributor or its Affiliates under this Agreement, any Ancillary Agreement or the Separation and Distribution Agreement).

18.2 Distributor hereby agrees to indemnify, defend and hold harmless Supplier and its officers, directors, agents, employees and Affiliates from and against any and all Losses arising out of, relating to or resulting from (i) Distributor's or any of its Representative's gross negligence or willful misconduct relating to this Agreement or (ii) Distributor's or any of its Representative's breach of this Agreement except to the extent arising from a claim for which Supplier has an indemnification obligation pursuant to Section 18.1.

18.3 Notwithstanding anything provided herein, if an indemnitor and indemnitee have, through their negligent acts or willful misconduct or omissions or breaches of this Agreement, jointly contributed to any of the matters to be indemnified hereunder, the indemnitee shall be indemnified hereunder only to the extent that such indemnified matters were not caused by the negligent acts, acts of willful misconduct or omissions of, or breaches of this Agreement by, the indemnitee.

18.4 With respect to Third Party claims asserted against a Party for which the other Party has an indemnification obligation under this Section 18, (a) the indemnified Party shall provide the indemnifying Party with written notice describing such indemnification claim ("Claim") in reasonable detail in light of the circumstances then known and then providing the indemnifying Party with further notices to keep it reasonably informed with respect thereto; provided however, that failure of the indemnified Party to keep the indemnifying Party reasonably informed as provided herein shall not relieve the indemnifying Party of its obligations hereunder except to the extent that the indemnified Party is materially prejudiced thereby; (b) the indemnifying Party shall be entitled to participate in such Claim and assume the defense thereof with counsel reasonably satisfactory to the indemnified Party, at the indemnifying Party's sole expense; and (c) the indemnified Party shall reasonably cooperate with the indemnifying Party, at the indemnifying Party's sole cost and expense, in the defense of any Claim. The indemnifying Party will not accept any settlement unless the settlement includes as an unconditional term thereof the giving by the claimant or the plaintiff of a full and unconditional release of the indemnified Party, from all liability with respect to the matters that are subject to such Claim, without the indemnified Party's prior written consent, which consent shall not be unreasonably withheld or delayed. The indemnified Party may participate in the defense of any claim with counsel reasonably acceptable to the indemnifying Party, at the indemnified Party's own expense.

19. LIMITATION OF LIABILITY; EXCLUSION OF CONSEQUENTIAL DAMAGES.

19.1 EXCEPT FOR CLAIMS ARISING AS A RESULT OF (A) A PARTY'S BREACH OF ITS CONFIDENTIALITY OBLIGATIONS UNDER SECTION 22 AND (B) A PARTY'S INDEMNIFICATION OBLIGATIONS WITH RESPECT TO THIRD PARTY LOSSES UNDER SECTION 18: (I) NEITHER PARTY WILL BE LIABLE TO THE OTHER FOR ANY LOST PROFITS, SPECIAL, INCIDENTAL, INDIRECT, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES, HOWEVER CAUSED, UNDER ANY THEORY OF LIABILITY, ARISING FROM THE PERFORMANCE OF, OR RELATING TO, THIS AGREEMENT REGARDLESS OF WHETHER SUCH PARTY HAS BEEN NOTIFIED OF THE POSSIBILITY OF, OR THE FORESEEABILITY OF, SUCH DAMAGES AND (II) IN NO EVENT SHALL EITHER PARTY'S LIABILITY FOR DAMAGES HEREUNDER EXCEED WITH RESPECT TO ANY SERVICES, THE

AMOUNT OF THE ECONOMIC BENEFIT CALCULATED IN ACCORDANCE WITH SECTION 11.1.2(a) SOLELY TO THE EXTENT RELATED TO THE SERVICES HEREUNDER, EXCEPT IN THE CASE OF SUCH PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. FOR THE AVOIDANCE OF DOUBT, NOTHING IN THIS SECTION 19.1 SHALL LIMIT EITHER PARTY'S LIABILITY FOR PAYMENT OBLIGATIONS IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT.

20. TERMINATION

20.1 Termination by agreement. Supplier and Distributor may agree to terminate this Agreement early with respect to all Territories hereunder at any time subject to prior written agreement (including as to notice (which shall not be less than ninety (90) days), exit costs and revised Product Prices for remaining Territories and Services).

20.2 Termination by Either Party. Either Party may terminate this Agreement if the other Party commits a material breach of this Agreement that materially and adversely impacts the provision of Services in any of the Territories or the other Party or an Affiliate of the other Party or its business, operations or assets and fails to cure such breach within ninety (90) days (thirty (30) days in the event of a payment breach) after receiving written notice of the breach. The Parties hereto hereby acknowledge and agree that any breach by any of their respective Representatives of any term or condition of this Agreement shall be deemed to be a breach by the applicable Party hereto of such term or condition (and any material breach by such Persons that has the effect set forth in the preceding sentence shall be grounds for termination of the affected Service pursuant to the preceding sentence). Any notice sent by Distributor with respect to a material breach and/or intention to terminate this Agreement shall also be sent to both Supplier addressees in Section 25.8.

20.3 Survival of Selected Provisions. Any provision which by its nature should survive, including the provisions of this Section 20.3 (Termination), Section 11 (Product Price, and Payment Terms), Section 16 (Title and Risk of Loss), Section 18 (Indemnification), Section 19 (Limitation of Liability; Exclusion of Consequential Damages), Section 22 (Confidentiality), Section 23 (Force Majeure), and Section 25 (Miscellaneous), shall survive the termination of this Agreement.

20.4 Post-Termination or Expiration Obligations. In connection with the termination or expiration of this Agreement for any reason whatsoever, the applicable Transition Plans shall govern the Parties' activities with respect to transitioning from all Services. Each Party shall use commercially reasonable efforts to return any and all written Confidential Information and any other materials and property in tangible form in the possession or under the control of such Party to the other Party, including any marketing materials, literature and product samples.

21. INTELLECTUAL PROPERTY RIGHTS

21.1 Existing Ownership Rights Unaffected. Neither Party will gain, by virtue of this Agreement, any rights of ownership (or, except as provided in Section 21.3, use) of copyrights, patents, trade secrets, trademarks or any other intellectual property rights owned by the other Party or its Affiliates. Except as set forth in the Ancillary Agreements, no license, title, ownership, or other intellectual property or proprietary rights are transferred to Supplier or any Supplier Representative pursuant to this Agreement, and Distributor retains all such rights, titles, ownership and other interests in the Distributor ERP System and all other software, hardware, systems and resources it uses to provide the Services, including, any special programs, functionalities, interfaces, or other work product that Distributor or its Representatives may develop at Supplier's request to provide the Services. Each Party shall be the sole and exclusive owner of, and nothing in this Agreement shall be deemed to grant the other Party, or any Representative of such Party, any right, title, license (other than as provided in Section 21.3), leasehold right or other interest in or to, any copyrights, patents, trade secrets, other intellectual property rights, ideas, concepts, techniques, inventions, processes, systems, works of authorship, facilities, floor space, resources, special programs, functionalities, interfaces, computer hardware or software, documentation or other work product developed, created, modified, improved, used or relied upon by either Party or its Representatives in connection with the providing or receiving Services or the performance of either Party's obligations hereunder. For the avoidance of doubt, no items created by either Party shall be considered a work made for hire for the other Party within the meaning of Title 17 of the United States Code.

21.2 Removal of Marks. The Parties agree that neither will remove any copyright notices, proprietary markings, trademarks or other indicia of ownership of the other Party from any materials of the other Party.

21.3 Intellectual Property License. Each Party hereby grants to the other, on behalf of itself and its Affiliates and only during the Term, a non-exclusive, worldwide, royalty-free, non-transferable, non-sublicensable, fully paid-up license to use any software, development tools, know-how, methodologies, processes, technologies, algorithms or any other intellectual property owned by such Party solely to the extent it is required for the purpose of providing or receiving such Services.

22. CONFIDENTIALITY

22.1 During the period beginning on the Commencement Date and ending on the date that is six (6) years from the date of expiry or termination of this Agreement, each Party shall retain in strict confidence, and shall cause such Party's Representatives to retain in strict confidence, the terms and conditions of this Agreement and all information and data relating to the other Party or its Affiliates received pursuant to this Agreement, including information regarding its business, employees, development plans, programs, documentation, techniques, trade secrets, systems, software and know-how ("Confidential Information"), and shall not use such Confidential Information other than in connection with the performance of this Agreement and, unless otherwise required by law, an order of court, a subpoena or other legal process (subject to Section 22.2 below), disclose such information to any Third Party without the other Party's prior written consent, except for Confidential Information that:

(a) was in such Party's possession on a non-confidential basis prior to the time of disclosure to such Party by the disclosing Party or its Representatives;

(b) was or becomes generally available to the public other than as a result of a disclosure by such Party or its Representatives;

(c) becomes available to such Party on a non-confidential basis from a source other than the disclosing Party or its Representatives;

(d) was independently developed by such Party without the use of Confidential Information of the other Party; or

(e) a Party is required to disclose to enforce its rights in this Agreement (and such use or disclosure shall be limited to that reasonably necessary for purposes of such enforcement, and subject to a protective order or other confidentiality protection where appropriate),

provided, in the case of clause (a) or (c), that the source of such information is not bound by a confidentiality agreement with the disclosing Party or otherwise prohibited from disclosing the information to the receiving Party by a contractual, legal or fiduciary obligation.

22.2 In the event that the receiving Party or any of its Representatives are requested or required by applicable Law, an order of court, a subpoena or other legal process to disclose any Confidential Information, the receiving Party will provide the disclosing Party with prompt written notice of any such request or requirement so that the disclosing Party may seek an appropriate protective order or other appropriate remedy. In the event that such protective order or other remedy is not obtained, or that the disclosing Party chooses not to seek such remedy, the receiving Party may disclose only that portion of the Confidential Information which is legally required and will exercise reasonable efforts to obtain assurance that confidential treatment will be accorded to such Confidential Information. The receiving Party agrees not to oppose action taken by the disclosing Party to obtain an appropriate protective order or other reliable assurance that confidential treatment will be accorded to the Confidential Information.

22.3 Each Party hereby acknowledges that the Confidential Information of the other Party may still be under development, or may be incomplete, and that such information may relate to products that are under development or are planned for development. NEITHER PARTY MAKES ANY REPRESENTATIONS REGARDING THE ACCURACY OF THE CONFIDENTIAL INFORMATION IT DISCLOSES TO THE OTHER PARTY. Neither Party shall have responsibility for any expenses, losses or actions incurred or undertaken by the other Party as a result of the other Party's receipt or use of Confidential Information.

22.4 It is understood and agreed that monetary damages may not be a sufficient remedy for any breach of this Section 22, and that the disclosing Party may be entitled to specific performance and injunctive or other equitable relief as a remedy for any such breach. Such remedy shall not be deemed to be the exclusive remedy for breach of this Section 22, but shall be in addition to all other remedies available at law or equity.

22.5 The obligations in this Section 22 shall survive any expiration or termination of this Agreement for six (6) years after the date of expiration or termination of this Agreement; provided, however, that, with respect to each trade secret of a Party or its Affiliates (where it is reasonably apparent that such item is a trade secret), such obligations shall continue as long as such trade secret remains otherwise protectable as a trade secret.

23. FORCE MAJEURE

23.1 Each Party will be excused for any failure or delay in performing any of its obligations under this Agreement if such failure or delay is caused by any event or condition beyond the reasonable control of the impacted Party, including act of God, law or government regulations, court orders, war, act of terror, civil commotion, labor strike or lock-out, epidemic, failure or default of public utilities or common carriers, destruction of facilities, systems or materials by fire, earthquake, storm or like catastrophe (a "Force Majeure Event"); provided, however that the impacted Party notifies the other Party as soon as practicable, in writing, upon learning of the occurrence of the Force Majeure Event, stating the date and extent of such suspension and the cause thereof, and the Parties shall promptly confer, in good faith, on what action may be taken to minimize the impact, on both Parties, of such condition; provided, further, that the impacted Party shall take measures to overcome the condition with respect to the Services which are consistent in all material respects with the measures taken in connection with the Party's other similarly affected operations, as relevant. A Party's obligations hereunder (except their obligations expressly set forth in the foregoing sentence and their payment obligations in respect of Services already provided) shall be postponed until the cessation of the Force Majeure Event; provided that such Party will use commercially reasonable efforts to resume its performance hereunder.

24. AUDIT

24.1 Supplier, on behalf of itself and the Supplier Affiliates, shall be entitled, at Supplier's cost, to appoint an independent auditor reasonably acceptable to Distributor to conduct periodic audits (not more frequently than twice per year) on reasonable advance notice and during normal business hours of the Reimbursable Costs, Set-Up Costs and/or other expenses being charged in connection with the Services provided by Distributor and any other components of the calculation of the True-Up Amount charged to Supplier hereunder, provided such audits shall be conducted in a manner that is intended to minimize, to the extent reasonably possible, disruption to the operations of Distributor and its relevant Affiliates. Any such audits must be completed within six (6) months after completion of a Service. The independent auditor shall enter into a confidentiality agreement with Distributor containing customary confidentiality obligations and shall, promptly following completion of such audit, disclose only the audit report, without any confidential audited materials, to both Parties.

24.2 If a Governmental Authority audit of Supplier or the Supplier Affiliates reasonably requires access to records in Distributor's possession with respect to the Services, Distributor will reasonably cooperate to provide such records to allow the Supplier or such Supplier Affiliates to comply with applicable Law.

24.3 Supplier, on behalf of itself and the Supplier Affiliates, shall be entitled, at Supplier's cost, during normal business hours and on reasonable notice to the Distributor (and/or the relevant Distributor Affiliate), to access the premises of the Distributor (and/or the relevant Distributor Affiliate) or the premises of a Third Party (provided that the Distributor or relevant Distributor Affiliate has the right to access such premises) where reasonably required to ensure that the Services are being provided to the standards required under this Agreement.

25. MISCELLANEOUS.

25.1 Mutual Cooperation. Each Party shall, and shall cause its Affiliates to, cooperate with the other Party and its Affiliates in connection with the performance of the Services hereunder; provided, however, that such cooperation shall not unreasonably disrupt the normal operations of such Party or its Affiliates; and, provided, further, that this Section 25.1 shall not require such Party to incur any out-of-pocket costs or expenses unless and except as expressly provided in this Agreement or otherwise agreed to in writing by the Parties.

25.2 Further Assurances. Subject to the terms of this Agreement, each Party shall take, or cause to be taken, any and all reasonable actions, including the execution, acknowledgment, filing and delivery of any and all documents and instruments that any other Party may reasonably request in order to effect the intent and purpose of this Agreement and the transactions contemplated hereby.

25.3 Audit Assistance. Each of the Parties and their respective Affiliates are or may be subject to regulation and audit by a Governmental Authority (including a Taxing Authority, as such term is defined in the Transition Services Agreement), standards organizations, customers or other parties to contracts with such Parties or their respective Affiliates under applicable Law, standards or contract provisions. If a Governmental Authority, standards organization, customer or other party to a contract with a Party or its Affiliate exercises its right to examine or audit such Party's or its Affiliate's books, records, documents or accounting practices and procedures pursuant to such applicable Law, standards or contract provisions, and such examination or audit relates to the Services, then the other Party shall provide, at the sole cost and expense of the requesting Party, all assistance reasonably requested by the Party that is subject to the examination or audit in responding to such examination or audits or requests for Information (as such term is defined in the Transition Services Agreement), to the extent that such assistance or Information is within the reasonable control of the cooperating Party and is related to the Services.

25.4 Counterparts; Entire Agreement; Corporate Power.

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

25.4.2 This Agreement, the Separation and Distribution Agreement and the other Ancillary Agreements and the Exhibits, Schedules and appendices hereto and thereto contain the entire agreement between the Parties with respect to the subject matter hereof, supersede all previous agreements, negotiations, discussions, writings, understandings, commitments and conversations with respect to such subject matter, and there are no agreements or understandings between the Parties other than those set forth or referred to herein or therein. This Agreement, the Separation and Distribution Agreement, and the other Ancillary Agreements govern the arrangements in connection with the Separation and Distribution and would not have been entered into independently.

25.4.3 Each Party acknowledges and agrees that delivery of an executed counterpart of a signature page to this Agreement (whether executed by manual, stamp or mechanical signature) by e-mail in portable document format (PDF) shall be effective as delivery of such executed counterpart of this Agreement. Each Party expressly adopts and confirms each such facsimile, stamp or mechanical signature (regardless of whether delivered in person, by mail, by courier or by e-mail in portable document format (PDF)) made in its respective name as if it were a manual signature delivered in person, agrees that it will not assert that any such signature or delivery is not adequate to bind such Party to the same extent as if it were signed manually and delivered in person and agrees that, at the reasonable request of the other Party at any time, it will as promptly as reasonably practicable cause this Agreement to be manually executed (any such execution to be as of the date of the initial date thereof) and delivered in person, by mail or by courier.

25.5 Governing Law. This Agreement (and any claims or disputes arising out of or related hereto or to the transactions contemplated hereby or to the inducement of any Party to enter herein, whether for breach of contract, tortious conduct or otherwise and whether predicated on common law, statute or otherwise) shall be governed by and construed and interpreted in accordance with the Laws of the State of Delaware, irrespective of the choice of Laws principles of the State of Delaware, including all matters of validity, construction, effect, enforceability, performance and remedies.

25.6 Assignability. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns; provided, however, that neither Party may assign its rights or delegate its obligations under this Agreement without the express prior written consent of the other Party. Notwithstanding the foregoing, Distributor may assign this Agreement or all of its rights or obligations hereunder to any Affiliate without Supplier's prior written consent (but with notice to the Supplier) solely to the extent such Affiliate can continue to deliver the Services hereunder without interruption.

25.7 Third-Party Beneficiaries. Except as expressly stated otherwise in this Agreement, (a) the provisions of this Agreement are solely for the benefit of the Parties and are not intended to confer upon any other Person except the Parties any rights or remedies hereunder; and (b) there are no other third-party beneficiaries of this Agreement and this Agreement shall not provide any other Third Party with any remedy, claim, liability, reimbursement, claim of action or other right in excess of those existing without reference to this Agreement.

25.8 Notices. All notices, requests, claims, demands or other communications under this Agreement shall be in writing and shall be given or made (and except as provided herein shall be deemed to have been duly given or made upon receipt) by delivery in person, by overnight courier service, by certified mail, return receipt requested, by electronic mail ("e-mail"), so long as confirmation of receipt of such e-mail is requested and received, to the respective Parties at the following addresses (or at such other address for a Party as shall be specified in a notice given in accordance with this Section 25.8):

If to Distibutor, to:

Becton, Dickinson and Company
1 Becton Drive
Franklin Lakes, New Jersey 07417
Attention: Joseph LaSala
Chief Counsel - Transactions/M&A
E-mail: joseph_lasala@bd.com

If to Supplier, to:

Embecta Corp.
300 Kimball Drive
Parsippany, New Jersey 07054
Attention: Jeff Mann
Senior Vice President, General Counsel,
Head of Corporate Development and Corporate Secretary
E-mail: jeff.mann@bd.com; jeff.mann@embecta.com

Any Party may, by notice to the other Party, change the address to which such notices are to be given or made.

25.9 Severability. If any provision of this Agreement or the application thereof to any Person or circumstance is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions hereof, or the application of such provision to Persons or circumstances or in jurisdictions other than those as to which it has been held invalid or unenforceable, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby. Upon such determination, the Parties shall negotiate in good faith in an effort to agree upon such a suitable and equitable provision to effect the original intent of the Parties.

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

25.11 Waivers of Default. Waiver by any Party of any default by the other Party of any provision of this Agreement shall not be deemed a waiver by the waiving Party of any subsequent or other default, nor shall it prejudice the rights of the waiving Party. No failure or delay by any Party in exercising any right, power or privilege under this Agreement shall operate as a waiver thereof, nor shall a single or partial exercise thereof prejudice any other or further exercise thereof or the exercise of any other right, power or privilege.

25.12 Specific Performance. Subject to Section 7, in the event of any actual or threatened default in, or breach of, any of the terms, conditions and provisions of this Agreement, the Party or Parties who are, or are to be, thereby aggrieved shall have the right to specific performance and injunctive or other equitable relief in respect of its rights 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 the remedies at law for any breach or threatened breach, including monetary damages, are inadequate compensation for any loss and that any defense in any action for specific performance that a remedy at law would be adequate is waived. Any requirements for the securing or posting of any bond with such remedy are hereby waived by each of the Parties. Unless otherwise agreed in writing, Distributor shall continue to provide Services and the Parties shall honor all other commitments under this Agreement during the course of dispute resolution pursuant to the provisions of Section 7 and this Section 25.12 with respect to all matters not subject to such Dispute; provided, however, that this obligation shall only exist during the term of this Agreement.

25.13 Amendments. No provisions of this Agreement shall be deemed waived, amended, supplemented or modified by a Party, unless such waiver, amendment, supplement or modification is in writing and signed by the authorized representative of the Party against whom enforcement of such waiver, amendment, supplement or modification is sought.

25.14 Precedence of Schedules. Each Schedule attached to or referenced in this Agreement is hereby incorporated into and shall form a part of this Agreement; provided, however, that the terms contained in such Schedule shall only apply with respect to the Services provided under that Schedule. In the event of a conflict between the terms contained in an individual Schedule and the terms in the body of this Agreement, the terms in the Schedule shall take precedence with respect to the Services under such Schedule only. No terms contained in individual Schedules shall otherwise modify the terms of this Agreement.

25.15 Interpretation. In this Agreement, (a) words in the singular shall be deemed to include the plural and vice versa and words of one gender shall be deemed to include the other genders as the context requires; (b) the terms “hereof,” “herein” and “herewith” and words of similar import shall, unless otherwise stated, be construed to refer to this Agreement as a whole (including all of the Schedules, Annexes and Exhibits hereto) and not to any particular provision of this Agreement; (c) Article, Section, Exhibit, Annex and Schedule references are to the Articles, Sections, Exhibits, Annexes and Schedules to this Agreement unless otherwise specified; (d) unless otherwise stated, all references to any agreement shall be deemed to include the exhibits, schedules and annexes to such agreement; (e) the word “including” and words of similar import when used in this Agreement shall mean “including, without limitation,” unless otherwise specified; (f) the word “or” shall not be exclusive; (g) the word “extent” in the phrase “to the extent” shall mean the degree to which a subject or other thing extends, and such phrase shall not mean simply “if”; (h) unless otherwise specified in a particular case, the word “days” refers to calendar days; (i) references to “business day” shall mean any day other than a Saturday, a Sunday or a day on which banking institutions are generally authorized or required by Law to close in the United States or Franklin Lakes, New Jersey; (j) references herein to this Agreement or any other agreement contemplated herein shall be deemed to refer to this Agreement or such other agreement as of the date on which it is executed and as it may be amended, modified or supplemented thereafter, unless otherwise specified; and (k) unless expressly stated to the contrary in this Agreement, all references to “the date hereof,” “the date of this Agreement,” “hereby” and “hereupon” and words of similar import shall all be references to [•], 2022.

25.16 Mutual Drafting. This Agreement shall be deemed to be the joint work product of the Parties and any rule of construction that a document shall be interpreted or construed against a drafter of such document shall not be applicable to this Agreement.

26. SCHEDULES

26.1 The following Schedules, as amended or supplemented from time to time, are attached hereto and made part of this Agreement.

Schedule Number	Name
1	Distributor and Supplier Entities by Territory
2	Services Schedule
3	Excluded Services
4	Certain Supplier Responsibilities

[Signatures Follow On a Separate Page]

IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be executed on its behalf by their respective officers thereunto duly authorized all as of the date first written above.

“Supplier”

By: _____
Name: _____
Title: _____

“Distributor”

By: _____
Name: _____
Title:_____

Exhibit 10.10

FIRST LIEN CREDIT AGREEMENT
DATED AS OF MARCH 31, 2022

AMONG

EMBECTA CORP.,
AS THE COMPANY,

MORGAN STANLEY SENIOR FUNDING, INC.,
AS ADMINISTRATIVE AGENT, COLLATERAL AGENT AND AN L/C ISSUER,

THE OTHER LENDERS AND L/C ISSUERS PARTY HERETO AND

MORGAN STANLEY SENIOR FUNDING, INC.,
BNP PARIBAS SECURITIES CORP.,
CITIGROUP GLOBAL MARKETS INC.,
JPMORGAN CHASE BANK, N.A.,
MUFG BANK, LTD.,
U.S. BANK NATIONAL ASSOCIATION and
WELLS FARGO BANK, N.A.,
AS JOINT LEAD ARRANGERS AND JOINT BOOKRUNNERS

CITIZENS BANK, N.A.,
PNC CAPITAL MARKETS LLC and
SANTANDER BANK, N.A.,
AS CO-DOCUMENTATION AGENTS

and

JPMORGAN CHASE BANK, N.A.,
AS SYNDICATION AGENT

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This **FIRST LIEN CREDIT AGREEMENT** is entered into as of March 31, 2022, among EMBECTA CORP., a Delaware corporation (the "**Company**"), the other CO-BORROWERS from time to time party hereto, each lender from time to time party hereto (collectively, the "**Lenders**" and each individually, a "**Lender**"), each L/C Issuer party hereto and MORGAN STANLEY SENIOR FUNDING, INC. ("**MS**"), as Administrative Agent, Collateral Agent and an L/C Issuer.

PRELIMINARY STATEMENTS

WHEREAS, the Company intends to undertake the Transactions (as defined below).

WHEREAS, in connection with the Transactions, and in its capacity as the initial Borrower hereunder, the Company has requested that, upon the satisfaction (or waiver by the Administrative Agent) in full of the conditions precedent set forth in the applicable provisions of Article IV below, the applicable Lenders (a) make initial term loans to the Company in an aggregate principal amount of $950,000,000 under the Initial Term Commitment and (b) make available to the Company an initial $500,000,000 multicurrency revolving credit facility for the making, from time to time, of revolving 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.

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, the following terms shall have the meanings set forth below:

"**5.000% Senior Secured Notes**" means the 5.000% senior secured notes due 2030 of the Company in an aggregate principal amount of $500,000,000.

"**5.000% Senior Secured Notes Indenture**" means the Indenture, dated as of February 10, 2022, by and among the Company, the guarantors party thereto from time to time and U.S. Bank Trust Company, National Association, as trustee and as notes collateral agent, pursuant to which the 5.000% Senior Secured Notes are issued, as such indenture may be amended or supplemented from time to time.

"**6.750% Senior Secured Notes**" means the 6.750% senior secured notes due 2030 of the Company in an aggregate principal amount of $200,000,000.

"**6.750% Senior Secured Notes Indenture**" means the Indenture, dated as of March 31, 2022, by and among the Company, the guarantors party thereto from time to time and U.S. Bank Trust Company, National Association, as trustee and as notes collateral agent, pursuant to which the 6.750% Senior Secured Notes are issued, as such indenture may be amended or supplemented from time to time.

"**ABR**", when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, bear interest at a rate determined by reference to the Alternate Base Rate.

"**ABR Loan**" means a Loan that bears interest based on ABR.

"**ABR Term SOFR Determination Day**" has the meaning specified in the definition of "Term SOFR".

"**Acceleration**" has the meaning specified in Section 8.01(e)(C).

"**Acceptable Commitment**" has the meaning specified in Section 7.04(a)(3)(b).

"**Accounting Change**" has the meaning specified in the definition of "GAAP."

"**Acquired EBITDA**" means, with respect to any Acquired Entity or Business or any Converted Restricted Subsidiary for any period, the amount for such period of Consolidated EBITDA of such Acquired Entity or Business or Converted Restricted Subsidiary, as applicable, all determined on a consolidated basis for such Acquired Entity or Business or Converted Restricted Subsidiary, as applicable.

"**Acquired Entity or Business**" has the meaning specified in the definition of the term "Consolidated EBITDA."

"**Acquired Indebtedness**" means, with respect to any Person, (x) Indebtedness of any other Person or any of its Subsidiaries existing at the time such other Person becomes a Restricted Subsidiary or merges or amalgamates with or into or consolidates or otherwise combines with the Company or any Restricted Subsidiary and (y) Indebtedness secured by a Lien encumbering any asset acquired by such Person. Acquired Indebtedness shall be deemed to have been incurred, with respect to clause (x) of the preceding sentence, on the date such Person becomes a Restricted Subsidiary or on the date of the relevant merger, amalgamation, consolidation, acquisition or other combination.

"**Acquisition Indebtedness**" means any Indebtedness incurred in connection with an acquisition or Investment permitted hereunder.

"**Additional Alternative Currency**" means any currency (other than Dollars and Euros) that is approved in accordance with Section 2.21.

"**Additional Assets**" means:

(1) any property or assets (other than Capital Stock) used or to be used by the Company, a Restricted Subsidiary or otherwise useful in a Similar Business (it being understood that capital expenditures on property or assets already used in a Similar Business or to replace any property or assets that are the subject of such Asset Disposition shall be deemed an investment in Additional Assets);

(2) the Capital Stock of a Person that is engaged in a Similar Business and becomes a Restricted Subsidiary as a result of the acquisition of such Capital Stock by the Company or a Restricted Subsidiary; or

(3) Capital Stock constituting a minority interest in any Person that at such time is a Restricted Subsidiary.

"**Adjusted EURIBOR Rate**" means, with respect to any Revolving Credit Borrowing denominated in Euros for any Interest Period, an interest rate per annum equal to (a) the EURIBOR Rate for such Interest Period multiplied by (b) the Statutory Reserve Rate; *provided* that if the Adjusted EURIBOR Rate as so determined would be less than the Floor, such rate shall be deemed to be the Floor for the purposes of this Agreement.

"**Adjusted Eurocurrency Rate**" means with respect to any Revolving Credit Borrowing (i) denominated in Euros, the Adjusted EURIBOR Rate, and (ii) denominated in any Additional Alternative Currency (other than a currency referenced in clause (i) above), an interest rate per annum equal to (a) the applicable Eurocurrency Rate for such Additional Alternative Currency for such Interest Period multiplied by (b) the Statutory Reserve Rate; *provided* that if the Adjusted Eurocurrency Rate for such Additional Alternative Currency as so determined would be less than the Floor, such rate shall be deemed to be the Floor for purposes of this Agreement.

"**Administrative Agent**" means MS acting through such of its Affiliates or branches as it may designate, in its capacity as administrative agent under any of the Loan Documents, or any successor administrative agent permitted by the terms hereof.

"**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 Company and the Lenders.

"**Administrative Questionnaire**" means an Administrative Questionnaire in substantially the form of Exhibit D-3 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**" means, with respect to any specified Person, any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For the purposes of this definition, "control" when used with respect to any Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

"**Affiliate Transaction**" has the meaning specified in Section 6.18(a).

"**Agent-Related Distress Event**" means, with respect to the Administrative Agent, the Collateral Agent or any Person that directly or indirectly controls the Administrative Agent or the Collateral 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 Administrative 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 the 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 the 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 each Agent, together with its Related Parties.

"**Agents**" means, collectively, the Administrative Agent, the Collateral Agent, the Arrangers, the Co-Documentation Agents, the Syndication Agent, the Incremental Arrangers (if any) and the Supplemental Agents (if any).

"**Agent's Spot Rate of Exchange**" has the meaning specified in Section 1.08(a).

"**Aggregate Commitments**" means the Commitments of all the Lenders.

"**Agreement**" means this first lien credit agreement, as amended, restated, amended and restated, supplemented or otherwise modified from time to time.

"**Agreement Currency**" has the meaning specified in Section 10.23.

"**AHYDO Catch-up Payment**" means any payment required to be made (as determined by the Company) under the terms of Indebtedness in order to avoid the application of Section 163(e)(5) of the Code to such Indebtedness.

"**All-in Yield**" means, with respect to any Indebtedness, as of any date of determination, the sum of:

(i) the higher of (A) Term SOFR on such date for a deposit in U.S. dollars with a maturity of one month and (B) the Term SOFR "floor", if any, with respect thereto as of such date;

(ii) the applicable interest rate margin as of such date for SOFR Borrowings (or other loans that accrue interest by reference to a similar reference rate); and

(iii) the amount of original issue discount and upfront fees thereon (converted to yield assuming a four-year average life and without any present value discount);

but shall in any case not include arrangement fees, structuring fees, ticking fees, commitment fees, unused line fees, underwriting fees, any amendment and similar fees (regardless of whether paid in whole or in part to the lenders) or any other fees not paid generally to all lenders by the applicable borrower in the primary syndication of such indebtedness.

"**Alternate 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 ½ of 1% and (c) Term SOFR for a one month Interest Period as published on such day (or if such day is not a Business Day, the immediately preceding Business Day) plus 1%. If the Administrative Agent shall have determined that it is unable to ascertain the NYFRB Rate or Term SOFR for any reason, the Alternate Base Rate shall be determined without regard to clause (b) or (c) of this definition, as applicable, until the circumstances giving rise to such inability no longer exist. Any change in the Alternate Base Rate due to a change in the Prime Rate, the NYFRB Rate or Term SOFR shall be effective from and including the effective date of such change in the Prime Rate, the NYFRB Rate or Term SOFR, as applicable.

"**Alternative Currency**" means (a) Euros and (b) any Additional Alternative Currency.

"**Anti-Corruption Laws**" has the meaning specified in Section 5.20.

"**Applicable Commitment Fee**" means a percentage per annum equal to 0.25% per annum.

"**Applicable Intercreditor Arrangements**" means customary intercreditor arrangements that are reasonably satisfactory to the Administrative Agent (it being understood that an intercreditor agreement that is substantially in the form of the first lien/second lien intercreditor agreement attached as Exhibit G-1 or the *pari passu* intercreditor agreement attached as Exhibit G-2 hereto, as applicable, is reasonably satisfactory to the Administrative Agent).

"**Applicable Jurisdiction**" means the United States of America, any state thereof or the District of Columbia.

"**Applicable Rate**" means:

(a) a percentage per annum equal to, with respect to the Initial Term Loans, 3.00% per annum for SOFR Loans and 2.00% per annum for ABR Loans; and

(b) a percentage per annum equal to, with respect to the Initial Revolving Tranche, 3.00% per annum for SOFR Loans and Eurocurrency Rate Loans and 2.00% per annum for ABR Loans.

"**Appropriate Lender**" means, at any time, (a) with respect to any Facility, a Lender that has a Commitment with respect to such Facility or holds Loans made under such Facility at such time, and (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.

"**Approved Commercial Bank**" means a commercial bank with a consolidated combined capital and surplus of at least $5,000,000,000.

"**Approved Foreign Bank**" has the meaning specified in the definition of "Cash Equivalents."

"**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 and controls such Lender.

"**Arrangers**" means each of Morgan Stanley Senior Funding, Inc., BNP Paribas Securities Corp., Citigroup Global Markets Inc., JPMorgan Chase Bank, N.A., MUFG Bank, LTD., U.S. Bank National Association and Wells Fargo Bank, N.A., in their respective capacities as exclusive joint lead arrangers and bookrunners.

"**Asset Disposition**" means:

(a) the voluntary 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 and Leaseback Transaction), in each case outside the ordinary course of business, of any Restricted Group Member (in each case other than Capital Stock of the Company) (each referred to in this definition as a "**Disposition**"); or

(b) the issuance or sale of Capital Stock of any Restricted Subsidiary (other than Preferred Stock or Disqualified Stock of Restricted Subsidiaries issued in compliance with Section 7.01 or directors' qualifying shares and shares issued to foreign nationals as required under applicable law), whether in a single transaction or a series of related transactions;

in each case, other than:

(1) a disposition by the Company or a Restricted Subsidiary to the Company or a Restricted Subsidiary, including pursuant to any Intercompany License Agreement;

(2) a disposition of cash, Cash Equivalents or Investment Grade Securities, including any marketable securities portfolio owned by the Company and its Subsidiaries on the Closing Date;

(3) a disposition of inventory, goods or other assets (including Settlement Assets) in the ordinary course of business or consistent with past practice or held for sale or no longer used in the ordinary course of business, including any disposition of disposed, abandoned or discontinued operations;

(4) a disposition of obsolete, worn-out, uneconomic, damaged, non-core or surplus property, equipment or other assets or property, equipment or other assets that are no longer economically practical or commercially desirable to maintain or used or useful in the business of the Company and its Restricted Subsidiaries whether now or hereafter owned or leased or acquired in connection with an acquisition or used or useful in the conduct of the business of the Company and its Restricted Subsidiaries (including by ceasing to enforce, allowing the lapse, abandonment or invalidation of or discontinuing the use or maintenance of or putting into the public domain any intellectual property that is, in the reasonable judgment of the Company or its Restricted Subsidiaries, no longer used or useful, or economically practicable to maintain, or in respect of which the Company or any Restricted Subsidiary determines in its reasonable judgment that such action or inaction is desirable);

(5) transactions permitted under Section 7.03 or a transaction that constitutes a Change of Control;

(6) an issuance of Capital Stock by a Restricted Subsidiary to the Company or to another Restricted Subsidiary or as part of or pursuant to an equity incentive or compensation plan approved by the Board of Directors of the Company;

(7) any dispositions of Capital Stock, properties or assets in a single transaction or series of related transactions with a fair market value (as determined in good faith by the Company) of less than the greater of (i) $75,000,000 and (ii) 15.0% of LTM EBITDA;

(8) any Restricted Payment that is permitted to be made, and is made, under Section 7.05 and the making of any Permitted Payment or Permitted Investment, or solely for purposes of Section 7.04(a)(3), asset sales, the proceeds of which are used to make such Restricted Payments or Permitted Investments;

(9) dispositions in connection with Permitted Liens, Permitted Intercompany Activities, Permitted Tax Restructurings and related transactions;

(10) dispositions of receivables in connection with the compromise, settlement or collection thereof in the ordinary course of business or consistent with past practice or in bankruptcy or similar proceedings and exclusive of factoring or similar arrangements;

(11) conveyances, sales, transfers, licenses, sublicenses, cross-licenses or other dispositions of intellectual property, software or other general intangibles and licenses, sublicenses, cross-licenses (including the provision of software under an open source license), leases or subleases of other property, in each case, in the ordinary course of business or consistent with past practice or pursuant to a research or development agreement in which the counterparty to such agreement receives a license in the intellectual property or software that result from such agreement;

(12) the lease, assignment, license, sublease or sublicense of any real or personal property in the ordinary course of business or consistent with industry practice;

(13) foreclosure, condemnation, expropriation, forced disposition or any similar action with respect to any property or other assets or the granting of Liens not prohibited by this Agreement;

(14) the sale, discount or other disposition (with or without recourse, and on customary or commercially reasonable terms and for credit management purposes) of inventory, accounts receivable or notes receivable in the ordinary course of business or consistent with past practice, or the conversion or exchange of accounts receivable for notes receivable;

(15) any issuance or sale of Capital Stock in, or Indebtedness or other securities of, an Unrestricted Subsidiary or any other disposition of Capital Stock, Indebtedness or other securities of an Unrestricted Subsidiary or an Immaterial Subsidiary;

(16) any disposition of Capital Stock of a Restricted Subsidiary pursuant to an agreement or other obligation with or to a Person (other than the Company or a Restricted Subsidiary) from whom such Restricted Subsidiary was acquired, or from whom such Restricted Subsidiary acquired its business and assets (having been newly formed in connection with such acquisition), made as part of such acquisition and in each case comprising all or a portion of the consideration in respect of such sale or acquisition;

(17) (i) dispositions of property to the extent that such property is exchanged for credit against the purchase price of similar replacement property that is promptly purchased, (ii) dispositions of property to the extent that the proceeds of such disposition are promptly applied to the purchase price of such replacement property (which replacement property is actually promptly purchased) and (iii) to the extent treated as tax-free under Section 1031 of the Code or comparable law or regulation, any exchange of like property (excluding any boot thereon) for use in a Similar Business;

(18) any disposition of assets of the type specified in the definitions of Securitization Assets or Receivables Assets, or participations therein, including in connection with any Qualified Securitization Financing or Receivables Facility;

(19) any financing transaction with respect to property constructed, acquired, leased, renewed, relocated, expanded, replaced, repaired, maintained, upgraded or improved (including any reconstruction, refurbishment, renovation and/or development of real property) by the Company or any Restricted Subsidiary after the Closing Date, including Sale and Leaseback Transactions and asset securitizations, not prohibited by this Agreement;

(20) sales, transfers or other dispositions of Investments in joint ventures or similar entities to the extent required by, or made pursuant to customary buy/sell arrangements between, the parties set forth in joint venture arrangements and similar binding arrangements;

(21) any surrender or waiver of contractual rights or the settlement, release, surrender or waiver of contractual, tort, litigation or other claims of any kind;

(22) the unwinding of any Obligations in respect of Cash Management Agreements or Swap Obligations;

(23) transfers of property or assets subject to Casualty Events upon receipt of the Net Cash Proceeds of such Casualty Event; *provided* that any Cash Equivalents received by the Company or any of its Restricted Subsidiaries in respect of such Casualty Event shall be deemed to be Net Cash Proceeds of an Asset Disposition, and such Net Cash Proceeds shall be applied in accordance with Section 2.05(b)(ii);

(24) any disposition to a Captive Insurance Subsidiary;

(25) any sale of property or assets, if the acquisition of such property or assets was financed with Excluded Contributions and the proceeds of such sale are used to make a Restricted Payment pursuant to clause (10)(b) under Section 7.05(b);

(26) the disposition of any assets (including Capital Stock) (i) acquired in a transaction after the Closing Date, which assets are not useful in the core or principal business of the Company and its Restricted Subsidiaries, or (ii) made in connection with the approval of any applicable antitrust authority or otherwise necessary or advisable in the reasonable determination of the Company to consummate any acquisition;

(27) any sale, transfer or other disposition to affect the formation of any Subsidiary that is a Divided LLC; *provided* that upon formation of such Divided LLC, such Divided LLC shall be a Restricted Subsidiary if the entity was a Restricted Subsidiary prior to the formation of such Divided LLC;

(28) any disposition of (i) non-revenue producing assets to a Person who is providing services related to such assets, the provision of which have been or are to be outsourced by the Company or any Restricted Subsidiary to such Person, (ii) *de minimis* amounts of equipment provided to employees of the Company or any Subsidiary or (iii) samples, including time-limited evaluation software, provided to customer or prospective customers;

(29) [reserved];

(30) any disposition to effect the Transactions; and

(31) other sales or Dispositions in an amount not to exceed the greater of (i) $175,000,000 and (ii) 35.0% of LTM EBITDA.

In the event that a transaction (or any portion thereof) meets the criteria of a permitted Asset Disposition and would also be a Permitted Investment or an Investment permitted under Section 7.05, the Company, in its sole discretion, will be entitled to divide, classify and reclassify such transaction (or a portion thereof) as an Asset Disposition and/or one or more of the types of Permitted Investments or Investments permitted under Section 7.05.

"**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.

"**Associate**" means (i) any Person engaged in a Similar Business of which the Company or its Restricted Subsidiaries are the legal and beneficial owners of between 20% and 50% of all outstanding Voting Stock and (ii) any joint venture entered into by the Company or any Restricted Subsidiary.

"**Auto-Extension Letter of Credit**" has the meaning specified in Section 2.03(c)(iii).

"**Available Amount Builder Basket**" has the meaning specified in Section 7.05(a)(4)(b).

"**Available Tenor**" means, as of any date of determination and with respect to the then-current Benchmark, as applicable, (x) if such Benchmark is a term rate, any tenor for such Benchmark (or component thereof) that is or may be used for determining the length of an interest period pursuant to this Agreement or (y) otherwise, any payment period for interest calculated with reference to such Benchmark (or component thereof) that is or may be used for determining any frequency of making payments of interest calculated with reference to such Benchmark pursuant to this Agreement, in each case, 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 Section 3.04.

"**Bail-In Action**" means the exercise of any Write-Down and Conversion Powers by the applicable Resolution Authority in respect of any liability of an Affected Financial Institution.

"**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 for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule, and (b) with respect to the United Kingdom, Part I of the United Kingdom Banking Act 2009 (as amended from time to time) and any other law, regulation or rule applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (other than through liquidation, administration or other insolvency proceedings).

"**BD**" means Becton, Dickinson and Company, a New Jersey corporation.

"**BD Guaranty**" means the Parent Guaranty Agreement, dated as of the Closing Date, executed by BD.

"**BD Guaranty Release Date**" means the date on which the BD Guaranty Release Condition is satisfied or waived.

"**BD Guaranty Release**" has the meaning specified in Section 9.11(f).

"**BD Guaranty Release Condition**" means that (i) the Spin-Off shall have been consummated and (ii) BD shall have delivered a certificate to the Administrative Agent executed by a Responsible Officer of BD certifying that all conditions to the Spin-Off have been satisfied or waived on or prior to the date of (or are expected to be satisfied or waived one calendar day after the date of) such certificate.

"**Benchmark**" means, initially, with respect to any Obligations, interest, fees, commissions or other amounts denominated in, or calculated with respect to (a) Dollars, the Term SOFR Reference Rate; *provided* that if a Benchmark Transition Event has 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 Section 3.04, or (b) any Alternative Currency, the Adjusted Eurocurrency Rate applicable thereto; *provided* that if a Benchmark Transition Event has occurred with respect to such Adjusted Eurocurrency Rate, then "Benchmark" means, with respect to such Obligations, interest, fees, commissions or other amounts, the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such benchmark rate pursuant to Section 3.04. Any reference to "Benchmark" shall include, as applicable, the published component used in the calculation thereof.

"**Benchmark Replacement**" means, with respect to any Benchmark Transition Event, the first alternative set forth in the order below that can be determined by the Administrative Agent for the applicable Benchmark Replacement Date:

(a) for purposes of Section 3.04(a), the sum of (i) Daily Simple SOFR and (ii) the related Benchmark Replacement Adjustment; or

(b) the sum of: (i) the alternate benchmark rate that has been selected by the Administrative Agent and the Borrower giving due consideration to (A) any selection or recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the Relevant Governmental Body or (B) any evolving or then-prevailing market convention for determining a benchmark rate as a replacement to the then-current Benchmark for syndicated credit facilities denominated in the applicable currency and (ii) the related Benchmark Replacement Adjustment.

If the Benchmark Replacement as determined pursuant to clause (a) or (b) 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, 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 Borrower 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 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 denominated in the applicable currency at such time.

"**Benchmark Replacement Date**" means, with respect to any Benchmark, the earliest to occur of the following events with respect to the then-current Benchmark:

(a) in the case of clause (a) or (b) of the definition of "Benchmark Transition Event," the later of (i) the date of the public statement or publication of information referenced therein and (ii) 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

(b) in the case of clause (c) 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 non-representative; provided that such non-representativeness will be determined by reference to the most recent statement or publication referenced in such clause (c) 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, the "Benchmark Replacement Date" will be deemed to have occurred in the case of clause (a) or (b) 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 the occurrence of one or more of the following events with respect to the then-current Benchmark:

(a) 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);

(b) 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 Federal Reserve Board, the Federal Reserve Bank of New York, 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), 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

(c) 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 not, or as of a specified future date will not 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, the period (if any) (a) beginning at the time that a Benchmark Replacement Date has occurred if, at such time, no Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any Loan Document in accordance with Section 3.04 and (b) ending at the time that a Benchmark Replacement has replaced the 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.

"**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 Plan**" means any of (a) an "employee benefit plan" (as defined in ERISA) that is subject to Title I of ERISA, (b) a "plan" as defined in and subject to Section 4975 of the Code or (c) any Person whose assets include (for purposes of ERISA Section 3(42) 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".

"**BHC Act Affiliate**" means an "affiliate" (as such term is defined under, and interpreted in accordance with, 12 U.S.C. 1841(k)) of such party.

"**Board of Directors**" means (i) with respect to the Company or any corporation, the board of directors or managers, as applicable, of the corporation, or any duly authorized committee thereof; (ii) with respect to any partnership, the board of directors or other governing body of the general partner, as applicable, of the partnership or any duly authorized committee thereof; (iii) with respect to a limited liability company, the managing member or members or any duly authorized controlling committee thereof; and (iv) with respect to any other Person, the board or any duly authorized committee of such Person serving a similar function. Whenever any provision requires any action or determination to be made by, or any approval of, a Board of Directors, such action, determination or approval shall be deemed to have been taken or made if approved by a majority of the directors on any such Board of Directors (whether or not such action or approval is taken as part of a formal board meeting or as a formal board approval). Unless the context requires otherwise, Board of Directors means the Board of Directors of the Company.

"**Borrower**" means, collectively, (i) the Company and (ii) each other Co-Borrower from time to time party hereto (or, as the context requires, any one of them). In the event that any Borrower consummates any merger, amalgamation or consolidation in accordance with Section 7.03, the surviving Person in such merger, amalgamation or consolidation shall be deemed to be a "Borrower" for all purposes of this Agreement and the other Loan Documents.

"**Borrower Materials**" has the meaning specified in Section 6.02.

"**Borrowing**" means a Revolving Credit Borrowing or a Term Borrowing, as the context may require.

"**Budgeted Amounts**" has the meaning specified in Section 2.05(b)(i)(7).

"**Business Day**" means:

(a) any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the Laws of, or are in fact closed in, New York City;

(b) solely if such day relates to any interest rate settings as to a Eurocurrency Rate Loan denominated in Euros, any fundings, disbursements, settlements or payments in Euros, or any other dealings in Euros to be carried out pursuant to this Agreement in respect of any such Eurocurrency Rate Loan, any such day on which the TARGET2 payment system is not open shall not be a "Business Day";

(c) solely if such day relates to any interest rate settings as to a Eurocurrency Rate Loan denominated in an Alternative Currency other than Euros, any fundings, disbursements, settlements or payments in such Alternative Currency, or any other dealings in such Alternative Currency to be carried out pursuant to this Agreement in respect of any such Eurocurrency Rate Loan, means any such day on which banks are open for foreign exchange business in the principal financial center of the country of such currency.

"**Business Successor**" means (i) any former Subsidiary of the Company and (ii) any Person that, after the Closing Date, has acquired, merged or consolidated with a Subsidiary of the Company (that results in such Subsidiary ceasing to be a Subsidiary of the Company), or acquired (in one transaction or a series of transactions) all or substantially all of the property and assets or business of a Subsidiary or assets constituting a business unit, line of business or division of a Subsidiary of the Company.

"**Canadian Dollars**" means freely transferable lawful money of Canada (expressed in Canadian dollars).

"**Capital Stock**" of any Person means any and all shares of, rights to purchase or acquire, warrants, options or depositary receipts for, or other equivalents of, or partnership or other interests in (however designated), equity of such Person, including any Preferred Stock, but excluding any debt securities convertible into, or exchangeable for, such equity.

"**Capitalized Lease Obligation"** means an obligation that is required to be classified and accounted for as a capitalized lease (in accordance with GAAP) (and, for the avoidance of doubt, not a straight-line or operating lease) for financial reporting purposes. The amount of Indebtedness represented by such obligation will be the capitalized amount of such obligation at the time any determination thereof is to be made as determined in accordance with GAAP, and the Stated Maturity thereof will be the date of the last payment of rent or any other amount due under such lease prior to the first date such lease may be terminated without penalty; *provided* that all obligations of the Company and its Restricted Subsidiaries that are or would be characterized as an operating lease as determined in accordance with GAAP as in effect on January 1, 2015 (whether or not such operating lease was in effect on such date) shall continue to be accounted for as an operating lease (and not as a Capitalized Lease Obligation) for purposes of this Agreement regardless of any change in GAAP following January 1, 2015 (that would otherwise require such obligation to be recharacterized as a Capitalized Lease Obligation).

"**Capitalized Software Expenditures**" means, for any period, the aggregate of all expenditures (whether paid in cash or accrued as liabilities) by a Person and its Restricted Subsidiaries during such period in respect of licensed or purchased software or internally developed software and software enhancements that, in conformity with GAAP, are or are required to be reflected as capitalized costs on the consolidated balance sheet of a Person and its Restricted Subsidiaries.

"**Captive Insurance Subsidiary**" means (i) any Subsidiary of the Company operating for the purpose of (a) insuring the businesses, operations or properties owned or operated by the Company or any of its Subsidiaries, including their future, present or former employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members), and related benefits and/or (b) conducting any activities or business incidental thereto (it being understood and agreed that activities which are relevant or appropriate to qualify as an insurance company for U.S. federal or state tax purposes shall be considered "activities or business incidental thereto") or (ii) any Subsidiary of any such insurance subsidiary operating for the same purpose described in clause (i) above.

"**Cash-Capped Incremental Facility**" has the meaning specified in Section 2.14(a).

"**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 Revolving Credit 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 (in the case of L/C Obligations in the respective currency or currencies in which the applicable L/C Obligations are denominated unless otherwise agreed by the Administrative Agent or L/C Issuer benefiting from such collateral) or, if the Administrative Agent or L/C Issuer benefiting from such collateral shall agree in its sole discretion, other credit support (including by backstop with a letter of credit satisfactory to the applicable L/C Issuer or by being deemed reissued under another agreement acceptable to the applicable L/C Issuer), in each case pursuant to documentation 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 Revolving Credit Lenders). "**Cash Collateral**" shall have a meaning correlative to the foregoing and shall include the proceeds of such cash collateral and other credit support.

"**Cash Equivalents**" means:

(1) (a) Dollars, Canadian Dollars, Pounds Sterling, Yen, Euro, any national currency of any member state of the European Union or any Alternative Currency; or (b) any other foreign currency held by the Company and its Restricted Subsidiaries from time to time in the ordinary course of business or consistent with past practice;

(2) securities issued or directly and fully guaranteed or insured by the United States, Canadian, United Kingdom or Japanese governments, a member state of the European Union or, in each case, any agency or instrumentality thereof (*provided* that the full faith and credit obligation of such country or such member state is pledged in support thereof), with maturities of 36 months or less from the date of acquisition;

(3) certificates of deposit, time deposits, eurodollar time deposits, overnight bank deposits, demand deposits or bankers' acceptances having maturities of not more than two years from the date of acquisition thereof issued by any bank, trust company or other financial institution (a) whose commercial paper is rated at least "P-2" or the equivalent thereof by S&P or at least "A-2" or the equivalent thereof by Moody's (or, if at the time, neither S&P or Moody's is rating such obligations, then a comparable rating from another Nationally Recognized Statistical Rating Organization selected by the Company) or (b) having combined capital and surplus in excess of $100,000,000;

(4) repurchase obligations for underlying securities of the types described in clauses (2), (3), (7) and (8) entered into with any Person meeting the qualifications specified in clause (3) above;

(5) securities with maturities of two years or less from the date of acquisition backed by standby letters of credit issued by any Person meeting the qualifications in clause (3) above;

(6) commercial paper and variable or fixed rate notes issued by any Person meeting the qualifications specified in clause (3) above (or by the parent company thereof) maturing within two years after the date of creation thereof, or if no rating is available in respect of the commercial paper or variable or fixed rate notes, the issuer of which has an equivalent rating in respect of its long-term debt;

(7) marketable short-term money market and similar securities having a rating of at least "P-2" or "A-2" from either S&P or Moody's, respectively (or, if at the time, neither S&P nor Moody's is rating such obligations, then a comparable rating from another Nationally Recognized Statistical Rating Organization selected by the Company);

(8) readily marketable direct obligations issued by any state, province, commonwealth or territory of the United States of America or any political subdivision, taxing authority or any agency or instrumentality thereof, rated BBB- (or the equivalent) or better by S&P or Baa3 (or the equivalent) or better by Moody's (or, if at the time, neither S&P nor Moody's is rating such obligations, then a comparable rating from another Nationally Recognized Statistical Rating Organization selected by the Company) with maturities of not more than two years from the date of acquisition;

(9) readily marketable direct obligations issued by any foreign government or any political subdivision, taxing authority or agency or instrumentality thereof, with a rating of "BBB-" or higher from S&P or "Baa3" or higher by Moody's or the equivalent of such rating by such rating organization (or, if at the time, neither S&P nor Moody's is rating such obligations, then a comparable rating from another Nationally Recognized Statistical Rating Organization selected by the Company) with maturities of not more than two years from the date of acquisition;

(10) Investments with average maturities of 24 months or less from the date of acquisition in money market funds with a rating of "A" or higher from S&P or "A-2" or higher by Moody's or the equivalent of such rating by such rating organization (or, if at the time, neither S&P nor Moody's is rating such obligations, then a comparable rating from another Nationally Recognized Statistical Rating Organization selected by the Company);

(11) with respect to any Non-U.S. Subsidiary: (i) obligations of the national government of the country in which such Non-U.S. Subsidiary maintains its chief executive office and principal place of business *provided* such country is a member of the Organization for Economic Cooperation and Development, in each case maturing within one year after the date of investment therein, (ii) certificates of deposit of, bankers' acceptance of, or time deposits with, any commercial bank which is organized and existing under the laws of the country in which such Non-U.S. Subsidiary maintains its chief executive office and principal place of business *provided* such country is a member of the Organization for Economic Cooperation and Development, and whose short-term commercial paper rating from S&P is at least "P-2" or the equivalent thereof or from Moody's is at least "A-2" or the equivalent thereof (any such bank being an "**Approved Foreign Bank**"), and in each case with maturities of not more than 270 days from the date of acquisition and (iii) the equivalent of demand deposit accounts which are maintained with an Approved Foreign Bank;

(12) Indebtedness or Preferred Stock issued by Persons with a rating of "BBB-" or higher from S&P or "Baa3" or higher by Moody's or the equivalent of such rating by such rating organization (or, if at the time, neither S&P nor Moody's is rating such obligations, then a comparable rating from another Nationally Recognized Statistical Rating Organization selected by the Company) with maturities of not more than two years from the date of acquisition;

(13) bills of exchange issued in the United States of America, Canada, the United Kingdom, Japan, a member state of the European Union eligible for rediscount at the relevant central bank and accepted by a bank (or any dematerialized equivalent);

(14) investments in industrial development revenue bonds that (i) "re-set" interest rates not less frequently than quarterly, (ii) are entitled to the benefit of a remarketing arrangement with an established broker dealer and (iii) are supported by a direct pay letter of credit covering principal and accrued interest that is issued by any bank meeting the qualifications specified in clause (3) above;

(15) investments in pooled funds or investment accounts consisting of investments in the nature described in the foregoing clause (14);

(16) investments in money market funds access to which is provided as part of "sweep" accounts maintained with any bank meeting the qualifications specified in clause (3) above;

(17) Cash Equivalents or instruments similar to those referred to in clauses (1) through (16) above denominated in Dollars or any Alternative Currency; and

(18) any investment company, money market, enhanced high yield, pooled or other investment fund investing 90% or more of its assets in instruments of the types specified in clauses (1) through (17) above.

In the case of Investments by any Non-U.S. Subsidiary that is a Restricted Subsidiary or Investments made in a country outside the United States of America, Cash Equivalents shall also include (a) investments of the type and maturity described in the clauses above of foreign obligors, which Investments or obligors (or the parents of such obligors) have ratings described in such clauses or equivalent ratings from comparable foreign rating agencies and (b) other short-term investments utilized by Non-U.S. Subsidiaries that are Restricted Subsidiaries in accordance with normal investment practices for cash management in investments analogous to the foregoing investments in the clauses above and in this paragraph.

In addition, in the case of Investments by any Captive Insurance Subsidiary, Cash Equivalents shall also include (a) such Investments with average maturities of 12 months or less from the date of acquisition in issuers rated BBB- (or the equivalent thereof) or better by S&P or Baa3 (or the equivalent thereof) or better by Moody's, in each case at the time of such Investment and (b) any Investment with a maturity of more than 12 months that would otherwise constitute Cash Equivalents of the kind described in any of clauses of this definition above or clause (a) in this paragraph, if the maturity of such Investment was 12 months or less; *provided* that the effective maturity of such Investment does not exceed 15 years.

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 10 Business Days following the receipt of such amounts.

For the avoidance of doubt, any items identified as Cash Equivalents under this definition will be deemed to be Cash Equivalents for all purposes under this Agreement regardless of the treatment of such items under GAAP.

"**Cash Management Agreement**" means any agreement or arrangement to provide Cash Management Services to the Company or any Restricted Group Member.

"**Cash Management Bank**" means any Person in its capacity as a party to a Cash Management Agreement that:

(a)

(i) at the time it enters into a Cash Management Agreement, is a Lender or an Agent or an Affiliate of a Lender or an Agent,

(ii) 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 45 days thereafter, a Lender or an Agent or an Affiliate of a Lender or an Agent and a party to a Cash Management Agreement,

(iii) within 45 days after the time it enters into the applicable Cash Management Agreement, becomes a Lender or an Affiliate of a Lender or an Agent, or

(iv) (A) has a long-term senior unsecured debt rating of A/A2 by S&P or Moody's (or their equivalent) or higher, (B) is a commercial bank, insurance company, investment or mutual fund or other entity (but not any Natural Person) that is an "accredited investor" (as defined in Regulation D of the Securities Act) or (C) has been approved in writing by the Administrative Agent,

(b) in the case of any Person described in the foregoing clause (a)(iii) or (iv), is designated by the Company in writing to the Administrative Agent as a "Cash Management Bank" for purposes of this Agreement and the other Loan Documents; and

(c) to the extent not the Administrative Agent, the Collateral Agent or a Lender hereunder, shall have appointed the Administrative Agent and the Collateral Agent as its agents under the applicable Loan Documents and agreed to be bound by the provisions of Article IX as if it were a Lender pursuant to a writing substantially in the form of Exhibit N or otherwise reasonably satisfactory to the Company and 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, without limitation, treasury, depository, overdraft, credit, purchasing or debit card, non-card e-payable 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 any Restricted Group Member of any insurance proceeds or condemnation awards in respect of any equipment, assets or real property (including any improvements thereon) to replace or repair such equipment, assets or real property.

"**Central Bank Rate**" means, (A) the greater of (i) for any Loan denominated in Euro, one of the following three rates as may be selected by the Administrative Agent in its reasonable discretion: (1) the fixed rate for the main refinancing operations of the European Central Bank (or any successor thereto), or, if that rate is not published, the minimum bid rate for the main refinancing operations of the European Central Bank (or any successor thereto), each as published by the European Central Bank (or any successor thereto) from time to time, (2) the rate for the marginal lending facility of the European Central Bank (or any successor thereto), as published by the European Central Bank (or any successor thereto) from time to time or (3) the rate for the deposit facility of the central banking system of the Participating Member States, as published by the European Central Bank (or any successor thereto) from time to time and (ii) the Floor; *plus* (B) the applicable Central Bank Rate Adjustment.

"**Central Bank Rate Adjustment**" means, for any day, for any Loan denominated in Euro, a rate equal to the difference (which may be a positive or negative value or zero) of (i) the average of EURIBOR for the five most recent Business Days preceding such day for which the EURIBOR Screen Rate was available (excluding, from such averaging, the highest and the lowest EURIBOR applicable during such period of five (5) Business Days) *minus* (ii) the Central Bank Rate in respect of Euro in effect on the last Business Day in such period. For purposes of this definition, (x) the term Central Bank Rate shall be determined disregarding clause (B) of the definition of such term and (y) EURIBOR on any day shall be based on the EURIBOR Screen Rate on such day at approximately the time referred to in the definition of such term for deposits in the applicable currency for a maturity of one month; *provided* that if such rate shall be less than the Floor, such rate shall be deemed to be the Floor.

"**CERCLA**" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

"**CFC**" means a "controlled foreign corporation" within the meaning of Section 957 of the Code.

A "**Change of Control**" will be deemed to occur if:

(a) prior to the Spin-Off Date, BD ceases to own, directly or indirectly, 100% of the Equity Interests of the Company; or

(b) any person or "group" (within the meaning of Rule 13d-3 and Rule 13d-5 under the Exchange Act as in effect on the date hereof, but excluding any employee benefit plan, any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan), other than (prior to the Spin-Off Date) BD or any of its Subsidiaries, acquires beneficial ownership of more than 50.0% of the Voting Stock (measured by reference to ordinary voting power) of the Company (determined on a fully diluted basis).

Notwithstanding the foregoing, (i) a transaction in which the Company becomes a subsidiary of another Person shall not constitute a Change of Control if (a) the shareholders of the Company immediately prior to such transaction beneficially own, directly or indirectly through one or more intermediaries, the same proportion of voting power of the outstanding classes or series of the Company's voting stock as such shareholders beneficially own immediately following the consummation of such transaction or (b) immediately following the transaction no person or group (other than a person or group satisfying the requirements of this sentence) is the owner, directly or indirectly, of more than 50.0% of the voting stock of such Person, measured by voting power rather than number of shares and (ii) the Transactions shall not constitute a Change of Control. For purposes of this definition, a Person shall not be deemed to have beneficial ownership of securities subject to a stock purchase agreement, merger agreement or similar agreement until the consummation of the transactions contemplated by such agreement.

"**Closing Date**" means March 31, 2022.

"**Co-Borrower Joinder Agreement**" means a joinder agreement, in substantially the form of Exhibit K hereto or otherwise in a form reasonably acceptable to the Administrative Agent, pursuant to which a Co-Borrower agrees to become an obligor in respect of Borrowings under this Agreement.

"**Co-Borrowers**" means any Wholly Owned Restricted Subsidiaries organized in any Applicable Jurisdiction from time to time designated by the Company to the Administrative Agent as "borrowers" with respect to Borrowings in accordance with Section 11.01, and "Co-Borrower" means any one of them.

"**Code**" means the U.S. Internal Revenue Code of 1986, as amended from time to time.

"**Co-Documentation Agents**" means each of Citizens Bank, N.A., PNC Capital Markets LLC and Santander Bank, N.A., in their respective capacities as co-documentation agents.

"**Collateral**" means all of the "Collateral" (or similar term) referred to in the Collateral Documents and all of the other property and assets that are or are required under the terms of the Collateral Documents to be subject to Liens in favor of the Collateral Agent for the benefit of the Secured Parties.

"**Collateral Agent**" means MS, acting through such of its Affiliates or branches as it may designate, in its capacity as collateral agent under any of the Loan Documents, or any successor collateral agent permitted by the terms hereof.

"**Collateral Documents**" means, collectively, the Security Agreement, the Intellectual Property Security Agreements, 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 6.12, Section 6.14 or Section 6.16 or Section 11.01 that creates or purports to create a Lien in favor of the Collateral Agent, and each of the other agreements, instruments or documents that creates or purports to create a Lien in favor of the Collateral Agent for the benefit of the Secured Parties.

"**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 another or (d) a continuation of SOFR Loans or Eurocurrency Rate Loans, pursuant to Section 2.02(a), which 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**" has the meaning set forth in the preamble to this Agreement.

"**Company Competitor**" means any Person that competes with the business of the Company and its direct and indirect 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 Company and the Administrative Agent.

"**Conforming Changes**" means, with respect to either the use or administration of Term SOFR or the use, administration, adoption or implementation of any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of "Alternate Base Rate" or "ABR," the definition of "Business Day," the definition of "U.S. Government Securities Business Day," the definition of "Interest Period" or any similar or analogous definition (or the addition of a concept 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 Section 3.06 and other technical, administrative or operational matters) that the Administrative Agent decides in its reasonable discretion may be appropriate to reflect the adoption and implementation of any such rate or to permit the use and administration thereof by the Administrative Agent in a manner substantially consistent with market practice (or, if the Administrative Agent decides in its reasonable discretion that adoption of any portion of such market practice is not administratively feasible or if the Administrative Agent determines that no market practice for the administration of any such rate exists, in such other manner of administration as the Administrative Agent decides in its reasonable discretion is reasonably necessary in connection with the administration of this Agreement and the other Loan Documents).

"**Consolidated Cash Interest Expense**" means, with respect to any Person for any period, without duplication, the cash interest expense (including that attributable to any Capitalized Lease Obligation), net of cash interest income, with respect to Indebtedness of such Person and its Restricted Subsidiaries for such period, other than non-recourse Indebtedness, including commissions, discounts and other fees and charges owed with respect to letters of credit and bankers' acceptance financing and net cash costs under hedging agreements (other than in connection with the early termination thereof), excluding, in each case:

(i) amortization of deferred financing costs, debt issuance costs, commissions, fees and expenses and any other amounts of non-cash interest (including as a result of the effects of acquisition method accounting or pushdown accounting),

(ii) interest expense attributable to the movement of the mark-to-market valuation of obligations under Swap Obligations or other derivative instruments,

(iii) costs associated with incurring or terminating Swap Contracts and cash costs associated with breakage in respect of hedging agreements for interest rates,

(iv) commissions, discounts, yield, make-whole premium and other fees and charges (including any interest expense) incurred in connection with any non-recourse Indebtedness,

(v) "additional interest" owing pursuant to a registration rights agreement with respect to any securities,

(vi) any payments with respect to make-whole premiums or other breakage costs of any Indebtedness, including any Indebtedness issued in connection with the Transactions,

(vii) penalties and interest relating to Taxes,

(viii) accretion or accrual of discounted liabilities not constituting Indebtedness,

(ix) interest expense attributable to the Company resulting from push-down accounting,

(x) any expense resulting from the discounting of Indebtedness in connection with the application of recapitalization or purchase accounting,

(xi) any interest expense attributable to the exercise of appraisal rights and the settlement of any claims or actions (whether actual, contingent or potential) with respect thereto in connection with the Transactions or any acquisition or Investment, and

(xii) annual agency fees paid to any trustees, administrative agents and collateral agents with respect to any secured or unsecured loans, debt facilities, debentures, bonds, commercial paper facilities or other forms of Indebtedness (including any security or collateral trust arrangements related thereto), including the Senior Secured Notes.

For purposes of this definition, interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by such Person to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP.

"**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:

(i) cash,

(ii) Cash Equivalents,

(iii) 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,

(iv) deferred financing fees,

(v) 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 (iv) and (v) are non-cash items),

(vi) in the event that a Qualified Securitization Financing or Receivables Facility is accounted for off balance sheet, (x) gross accounts receivable comprising part of the receivables and other related assets subject to such Qualified Securitization Financing or Receivables Facility, as applicable, *minus* (y) collection by such Person against the amounts sold pursuant to clause (x), and

(vii) the effects of adjustments pursuant to GAAP resulting from the application of recapitalization accounting or purchase accounting, as applicable, in relation to the Transactions or 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 applicable, in relation to the Transactions or any consummated acquisition.

"**Consolidated Depreciation and Amortization Expense**" means, with respect to any Person for any period, the total amount of depreciation and amortization expense and capitalized fees, including amortization or write-off of:

(i) intangible assets and non-cash organization costs,

(ii) deferred financing and debt issuance fees, costs and expenses,

(iii) property, plant and equipment consisting of leasehold improvements, freehold improvements, office equipment and fittings,

(iv) right-of-use assets consisting of property and office equipment,

(v) capitalized expenditures (including Capitalized Software Expenditures), customer acquisition costs and incentive payments and signing bonuses, upfront payments related to any contract signing, media development costs, conversion costs and contract acquisition costs, the amortization of original issue discount resulting from the issuance of Indebtedness at less than par and amortization of favorable or unfavorable lease assets or liabilities, and

(vi) capitalized fees related to any Qualified Securitization Financing or Receivables Facility, of such Person and its Restricted Subsidiaries for such period on a consolidated basis and otherwise determined in accordance with GAAP and any write-down of assets or asset value carried on the balance sheet.

"**Consolidated EBITDA**" means, with respect to any Person for any period, the Consolidated Net Income of such Person for such period:

(1) increased (without duplication) by:

(a) Fixed Charges of such Person for such period (including (w) non-cash rent expense and the implied interest component of synthetic leases with respect to such period, (x) net payments and losses or any obligations on any Swap Obligations or other derivative instruments, (y) bank, letter of credit and other financing fees and (z) costs of surety bonds in connection with financing activities, *plus* amounts excluded from the definition of "Consolidated Interest Expense" and any non-cash interest expense), to the extent deducted (and not added back) in computing Consolidated Net Income; *plus*

(b) (x) provision for taxes based on income, profits, revenue or capital, including federal, foreign, state, provincial, territorial, local, unitary, excise, property, franchise, value added and similar taxes and withholding taxes (including any future taxes or other levies which replace or are intended to be in lieu of such taxes and any penalties, additions to tax and interest related to such taxes or arising from tax examinations), state taxes in lieu of business fees (including business license fees), payroll tax credits, income tax credits and similar credits, and similar taxes of such Person paid or accrued during such period (including in respect of repatriated funds), (y) any distributions made to a direct or indirect parent of the Company with respect to the foregoing and (z) the net tax expense associated with any adjustments made pursuant to the definition of "Consolidated Net Income" in each case, to the extent deducted (and not added back) in computing Consolidated Net Income; *plus*

(c) Consolidated Depreciation and Amortization Expense of such Person for such period to the extent deducted (and not added back) in computing Consolidated Net Income; *plus*

(d) any fees, costs, expenses or charges (other than Consolidated Depreciation and Amortization Expense) related to any actual, proposed or contemplated Equity Offering (including any expense relating to enhanced accounting functions or other transaction costs associated with becoming or being a stand-alone entity or a public company, including Public Company Costs), Permitted Investment, Restricted Payment, acquisition, disposition, recapitalization or the incurrence of Indebtedness permitted to be incurred by this Agreement (including a refinancing thereof) (whether or not successful and including any such transaction consummated prior to the Closing Date), including (i) such fees, expenses or charges (including rating agency fees, consulting fees and other related expenses and/or letter of credit or similar fees) related to the offering or incurrence of, or ongoing administration of the Senior Secured Notes, this Agreement, any other credit facilities or notes, any Securitization Fees and the Transactions, including Transaction Costs, and (ii) any amendment, waiver or other modification of the Senior Secured Notes, this Agreement, Receivables Facilities, Securitization Facilities, any other credit facilities or notes, any Securitization Fees, any other Indebtedness or any Equity Offering, in each case, whether or not consummated, to the extent deducted (and not added back) in computing Consolidated Net Income; *plus*

(e) (i) the amount of any restructuring charge, accrual, reserve (and adjustments to existing reserves) or expense, integration cost, inventory optimization programs or other business optimization expense or cost (including charges directly related to the implementation of operating expense reductions, platform consolidations and migrations, transitions, insourcing initiatives, operating improvements, cost-savings initiatives and tax restructurings) that is deducted (and not added back) in such period in computing Consolidated Net Income, including any costs incurred in connection with acquisitions or divestitures after the Closing Date, any severance, retention, signing bonuses, relocation, recruiting and other employee related costs, costs in respect of strategic initiatives and curtailments or modifications to pension and post-retirement employment benefit plans (including any settlement of pension liabilities), costs related to entry into new markets (including unused office or warehouse space costs) and new product design, development and introductions (including intellectual property development, labor costs, scrap costs and lower absorption of costs, including due to decreased productivity and greater inefficiencies), systems and/or software development and establishment costs, operational and reporting systems, technology initiatives, contract termination costs, costs related to customer disputes, distribution networks or sales channels, the implementation, replacement, development or upgrade of operational, reporting and information technology systems and technology initiatives, contract termination, retention, recruiting, severance, signing, consulting and transition services arrangements, future lease commitments, lease breakage and costs related to the pre-opening, opening and closure and/or consolidation of facilities (including severance, rent termination, moving and legal costs) and to exiting lines of business and consulting fees incurred with any of the foregoing and (ii) fees, costs and expenses associated with acquisition related litigation and settlement thereof; *plus*

(f) any other non-cash charges, write-downs, expenses, losses or items reducing Consolidated Net Income for such period including (i) non-cash losses on the sale of assets and any write-offs or write-downs, deferred revenue or impairment charges, (ii) impairment charges, amortization (or write offs) of financing costs (including debt discount, debt issuance costs and commissions and other fees associated with Indebtedness, including the Senior Secured Notes and this Agreement) of such Person and its Subsidiaries and/or (iii) the impact of acquisition method accounting adjustment and any non-cash write-up, write-down or write-off with respect to re-valuing assets and liabilities in connection with the Transactions or any Investment, deferred revenue or any effects of adjustments resulting from the application of purchase accounting, purchase price accounting (including any step-up in inventory and loss of profit on the acquired inventory) (*provided* that if any such non-cash charge, write-down, expense, loss or item represents an accrual or reserve for potential cash items in any future period, (A) the Company may elect not to add back such non-cash charge, expense or loss in the current period and (B) to the extent the Company elects to add back such non-cash charge, the cash payment in respect thereof in such future period shall be subtracted from Consolidated EBITDA when paid), or other items classified by the Company as special items less other non-cash items of income increasing Consolidated Net Income (excluding any amortization of a prepaid cash item that was paid in a prior period or such non-cash item of income to the extent it represents a receipt of cash in any future period); *plus*

(g) the amount of pro forma "run rate" cost savings (including cost savings with respect to salary, benefit and other direct savings resulting from workforce reductions and facility, benefit and insurance savings and any savings expected to result from the reduction of a public target's Public Company Costs), operating expense reductions, other operating improvements (including the entry into material contracts or arrangements), revenue enhancements (other than for purposes of determining compliance with Section 7.08) and initiatives and synergies (including, to the extent applicable, from (i) the Transactions, (ii) mergers or other business combinations, acquisitions or other investments, divestitures, restructurings, integration, insourcing initiatives, operating improvements, cost savings initiatives or any other initiative, action or event, (iii) the effect of new customer contracts or projects and/or (iv) increased pricing or volume in existing contracts) (it is understood and agreed that "run rate" means the full recurring benefit for a period that is associated with any action taken, committed to be taken or expected to be taken, net of the amount of actual benefits realized during such period form such actions) projected by the Company in good faith to be reasonably anticipated to be realizable or a plan for realization shall have been established within 24 months of the date thereof (including from any actions taken in whole or in part prior to such date), which will be added to Consolidated EBITDA as so projected until fully realized and calculated on a pro forma basis as though such cost savings (including cost savings with respect to salary, benefit and other direct savings resulting from workforce reductions and facility, benefit and insurance savings and any savings expected to result from the reduction of a public target's Public Company Costs), operating expense reductions, other operating improvements, revenue enhancements and initiatives and synergies had been realized on the first day of such period, net of the amount of actual benefits realized prior to or during such period from such actions; *provided*, that the aggregate amount of adjustments made pursuant to this clause (g) (combined with the aggregate amount of adjustments made pursuant to clause (v) below and the aggregate amount of cost savings, operating expense reductions and synergies added to Consolidated EBITDA pursuant to Section 1.10) shall not

exceed 25% of Consolidated EBITDA for any four fiscal quarter period (determined after giving effect thereto and all other adjustments and addbacks); *provided*, *further*, that in each case of this clause (g) and Section 1.10, such 25% cap shall not apply to any such adjustments that (A) would be permitted to be included in pro forma financial statements prepared in accordance with Regulation S-X under the Securities Act or (B) are otherwise in connection with or related to the Transactions; *plus*

(h) any costs or expenses incurred by the Company or a Restricted Subsidiary or a direct or indirect parent of the Company pursuant to any management equity plan, stock option plan, phantom equity plan, profits interests or any other management, employee benefit or other compensatory plan or agreement (and any successor plans or arrangements thereto), employment, termination or severance agreement, or any stock subscription or equityholder agreement, and any costs or expenses in connection with the roll-over, acceleration or payout of Capital Stock held by management, to the extent that such costs or expenses are non-cash or otherwise funded with cash proceeds contributed to the capital of the Company or Net Cash Proceeds of an issuance of Capital Stock (other than Disqualified Stock) of the Company; *plus*

(i) cash receipts (or any netting arrangements resulting in reduced cash expenditures) not representing Consolidated EBITDA or Consolidated Net Income in any period to the extent non-cash gains relating to such income were deducted in the calculation of Consolidated EBITDA pursuant to clause (2) below for any previous period and not added back; *plus*

(j) any net loss included in the Consolidated Net Income attributable to non-controlling or minority interests pursuant to the application of Accounting Standards Codification Topic 810-10-45 (or any successor provision or other financial accounting standard having a similar result or effect); *plus*

(k) the amount of any non-controlling or minority interest expense consisting of Subsidiary income attributable to non-controlling or minority equity interests of third parties in any non-Wholly Owned Subsidiary; *plus*

(l) (i) unrealized or realized foreign exchange losses resulting from the impact of foreign currency changes and (ii) gains and losses due to fluctuations in currency values and related tax effects determined in accordance with GAAP; *plus*

(m) with respect to any joint venture, an amount equal to the proportion of those items described in clauses (a), (b) and (c) above relating to such joint venture corresponding to the Company's and its Restricted Subsidiaries' proportionate share of such joint venture's Consolidated Net Income (determined as if such joint venture were a Restricted Subsidiary) to the extent deducted (and not added back) in computing Consolidated Net Income; *plus*

(n) the amount of any costs, charges or expenses relating to payments made to stock appreciation or similar rights, stock option, restricted stock, phantom equity, profits interests or other interests or rights holders of the Company or any of its Subsidiaries or any direct or indirect parent of the Company in connection with, or as a result of, any distribution being made to equityholders of such Person or any of its Subsidiaries or any direct or indirect parent thereof, 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*

(o) (i) amounts included in the EBITDA reconciliations set forth in the Information Memorandum or amounts of a similar nature to those set forth therein, without duplication, to the extent adjustments of such nature continue to be applicable during the period in which Consolidated EBITDA is being calculated and (ii) at the option of the Company, any adjustments (including pro forma adjustments) of the type reflected in (x) any quality of earnings report obtained in connection with the Transactions or (y) any quality of earnings report obtained in connection with any subsequent transaction and, in the case of this clause (y), made available to the Administrative Agent and prepared by a financial advisor that is reasonably acceptable to the Administrative Agent (it being agreed that any nationally recognized financial advisor (including any "big four" accounting firm) is acceptable to the Administrative Agent) (in each case, without regard to time or amounts); *plus*

(p) [reserved]; *plus*

(q) losses, charges and expenses related to the pre-opening and opening of new locations, and start-up period prior to opening, that are operated, or to be operated, by the Company or any Restricted Subsidiary; *plus*

(r) rent expense as determined in accordance with GAAP not actually paid in cash during such period (net of rent expense paid in case during such period over and above rent expense as determined in accordance with GAAP); *plus*

(s) losses, charges and expenses related to a new location, plant or facility until the date that is 24 months after the date of commencement of construction or the date of acquisition thereof, as applicable; *plus*

(t) any non-cash increase in expense resulting from the revaluation of inventory (including any impact of changes to inventory valuation policy methods including changes in capitalization of variances) or other inventory adjustments; *plus*

(u) (1) the net increase or (solely for purposes of determining compliance with Section 7.08) decrease, if any, of the difference between: (i) the deferred revenue of such Person and its Restricted Subsidiaries, as of the last day of such period (the "**Determination Date**") and (ii) the deferred revenue of such Person and its Restricted Subsidiaries as of the date that is 12 months prior to the Determination Date, and (2) without duplication of any adjustment pursuant to clause (1), the net adjustment for the annualized full year gross profit contribution from new customer contracts signed during the 12 months prior to the Determination Date; *plus*

(v) (other than for purposes of determining compliance with Section 7.08) the amount of incremental contract value of the Restricted Group that the Company in good faith reasonably believes would have been realized or achieved as Consolidated EBITDA contribution from (i) increased pricing or volume initiatives and/or (ii) the entry into (and performance under) binding and effective new agreements with

new customers or, if generating incremental contract value, new agreements (or amendments to existing agreements) with existing customers (collectively, "**New Contracts**") during such period had such New Contracts been effective and had performance thereunder commenced as of the beginning of such period (including, without limitation, such incremental contract value attributable to New Contracts that are in excess of (but without duplication of) contract value attributable to New Contracts that has been actually realized as Consolidated EBITDA contribution during such period) as long as such incremental contract value is reasonably identifiable and factually supportable; *provided* that such incremental contract value shall be calculated on a pro forma basis as though the full run rate effect of such incremental contract value had been realized as Consolidated EBITDA contributed on the first day of such period; *provided*, that the aggregate amount of adjustments made pursuant to this clause (v) (combined with the aggregate amount of cost savings, operating expense reductions and synergies added to Consolidated EBITDA pursuant to clause (g) above and Section 1.10) shall not exceed 25% of Consolidated EBITDA for any four fiscal quarter period (determined after giving effect thereto and all other adjustments and addbacks); *provided*, *further*, that in each case of this clause (v), such 25% cap shall not apply to any such adjustments that (A) would be permitted to be included in pro forma financial statements prepared in accordance with Regulation S-X under the Securities Act or (B) are otherwise in connection with or related to the Transactions; *plus*

(w) any fees, costs and expenses incurred in connection with the adoption or implementation of Accounting Standards Codification Topic 606—Revenue from Contracts with Customers (or any successor provision or other financial accounting standard having a similar result or effect), and any non-cash losses or charges resulting from the application of Accounting Standards Codification Topic 606—Revenue from Contracts with Customers (or any successor provision or other financial accounting standard having a similar result or effect); *plus*

(x) any fees, costs, expenses or charges related to or recorded in cost of sales to recognize cost on a last-in-first-out basis; *plus*

(y) earn-out obligations incurred in connection with any acquisition or other Investment and paid or accrued during the applicable period, including any mark-to-market adjustments; and

(2) decreased (without duplication) by non-cash gains increasing Consolidated Net Income of such Person for such period, excluding any non-cash gains to the extent they represent the reversal of an accrual or reserve for a potential cash item that reduced Consolidated EBITDA in any prior period (other than non-cash gains relating to the application of Accounting Standards Codification Topic 842—Leases) (or any successor provision or other financial accounting standard having a similar result or effect).

There shall be included in determining Consolidated EBITDA for any period, without duplication, (A) the Acquired EBITDA of any Person, property, business or asset acquired by the Company or any Restricted Subsidiary (including, as applicable, the property, businesses and assets acquired by (or contributed to) the Company and its Restricted Subsidiaries as part of the Transactions) during such period to the extent not subsequently sold, transferred or otherwise disposed of by the Company or such Restricted Subsidiary during such period (each such Person, property, business or asset acquired and not subsequently so disposed of, an "**Acquired Entity or Business**"), and the Acquired EBITDA of any Unrestricted

Subsidiary that is converted into a Restricted Subsidiary during such period (each, a "**Converted Restricted Subsidiary**"), based on the actual Acquired EBITDA of such Acquired Entity or Business or Converted Restricted Subsidiary for such period (including the portion thereof occurring prior to such acquisition) and (B) pro forma adjustments in respect of each Acquired Entity or Business as are consistent with Section 1.10.

For purposes of determining the Consolidated EBITDA for any period, there shall be excluded in determining Consolidated EBITDA for any period the Disposed EBITDA of any Person, property, business or asset (other than an Unrestricted Subsidiary) sold, transferred or otherwise disposed of, closed or classified as discontinued operations by the Company or any Restricted Subsidiary during such period (each such Person, property, business or asset so sold or disposed of, a "**Sold Entity or Business**") and the Disposed EBITDA of any Restricted Subsidiary that is converted into an Unrestricted Subsidiary during such period (each, a "**Converted Unrestricted Subsidiary**"), based on the actual Disposed EBITDA of such Sold Entity or Business or Converted Unrestricted Subsidiary for such period (including the portion thereof occurring prior to such sale, transfer or disposition); *provided* that for the avoidance of doubt, at the Company's option, notwithstanding any classification under GAAP of any Person, property, business or asset as discontinued operations, the Disposed EBITDA of such Person, property, business or asset shall not be excluded for any purposes hereunder until such disposition shall have been consummated.

Notwithstanding the foregoing, Consolidated EBITDA (a) for the fiscal quarter ended September 30, 2021, shall be deemed to be $115 million, (b) for the fiscal quarter ended June 30, 2021, shall be deemed to be $123 million and (c) for the fiscal quarter ended March 31, 2021, shall be deemed to be $126 million, in each case, as may be subject to addbacks and adjustments (without duplication) pursuant to clauses (1) and (2) above upon the occurrence of a "pro forma" event that occurs after the Closing Date and which is deemed to have occurred as of the first day of a period that includes any of the foregoing fiscal quarters.

"**Consolidated First Lien Net Leverage Ratio**" means, as of any date of determination, the ratio of (a) Consolidated Funded First Lien Indebtedness of the Restricted Group as of such date to (b) LTM EBITDA, in each case, calculated on a pro forma basis in a manner consistent with Section 1.10.

"**Consolidated Funded First Lien Indebtedness**" means Consolidated Funded Indebtedness of the Restricted Group that is secured by a Lien on the Collateral on an equivalent priority basis (but, in each case, without regard to control of remedies) with the Liens on the Collateral securing the Obligations. For the avoidance of doubt, Consolidated Funded First Lien Indebtedness shall not include Capitalized Lease Obligations or Purchase Money Obligations.

"**Consolidated Funded Indebtedness**" means, as of any date of determination, an amount equal to:

(a) the aggregate principal amount of outstanding Indebtedness for borrowed money (excluding (i) Indebtedness with respect to obligations in respect of Cash Management Agreements, intercompany Indebtedness, Subordinated Indebtedness, Disqualified Stock and Preferred Stock of Restricted Subsidiaries and (ii) Indebtedness outstanding under this Agreement that was used to finance working capital needs of the Company and its Restricted Subsidiaries (as reasonably determined by the Company) as of such date; *provided* that the aggregate principal amount of Indebtedness that may be excluded pursuant to this clause (ii) shall not exceed $50,000,000), *plus*

(b) the aggregate principal amount of Capitalized Lease Obligations, Purchase Money Obligations and unreimbursed drawings under letters of credit of the Company and its Restricted Subsidiaries outstanding on such date (*provided* that any unreimbursed amount under commercial letters of credit shall not be counted as Consolidated Funded Indebtedness until five Business Days after such amount is drawn), *minus*

(c) the aggregate amount of Unrestricted Cash and Cash Equivalents (*provided* that the cash proceeds of any proposed incurrence of Indebtedness shall not be included in this clause (c) for purposes of calculating the Consolidated Total Net Leverage Ratio, the Consolidated Senior Secured Net Leverage Ratio or the Consolidated First Lien Net Leverage Ratio, as applicable),

in each case, with such pro forma adjustments as are consistent with Section 1.10.

For the avoidance of doubt, Consolidated Funded Indebtedness shall exclude Indebtedness in respect of any Receivables Facility or Securitization Facility.

"**Consolidated Funded Senior Secured Indebtedness**" means Consolidated Funded Indebtedness of the Restricted Group that is secured by a Lien on the Collateral. For the avoidance of doubt, Consolidated Funded Senior Secured Indebtedness shall not include Capitalized Lease Obligations or Purchase Money Obligations.

"**Consolidated Interest Coverage Ratio**" means, as of any date of determination, the ratio of (a) LTM EBITDA to (b) Consolidated Cash Interest Expense of the Restricted Group on a consolidated basis for the Test Period ended on such date, in each case, calculated on a pro forma basis in a manner consistent with Section 1.10.

"**Consolidated Interest Expense**" means, with respect to any Person for any period, without duplication, the sum of:

(1) consolidated interest expense of such Person and its Restricted Subsidiaries for such period, to the extent such expense was deducted (and not added back) in computing Consolidated Net Income, which shall include:

(a) amortization of original issue discount or premium resulting from the issuance of Indebtedness at less than par,

(b) all commissions, discounts and other fees and charges owed with respect to letters of credit or bankers acceptances,

(c) non-cash interest payments (but excluding any non-cash interest expense attributable to the movement in mark-to-market valuation of any Swap Obligations or other derivative instruments pursuant to GAAP),

(d) the interest component of Capitalized Lease Obligations, and

(e) net payments, if any made (less net payments, if any, received), pursuant to interest rate Swap Obligations with respect to Indebtedness,

and which shall exclude:

(i) Securitization Fees,

(ii) penalties and interest relating to taxes,

(iii) annual agency or similar fees paid to the administrative agents, collateral agents and other agents under any credit facility (including the Facilities),

(iv) any additional interest or liquidated damages owing pursuant to any registration rights obligations,

(v) costs associated with obtaining Swap Obligations,

(vi) accretion or accrual of discounted liabilities other than Indebtedness,

(vii) any expense resulting from the discounting of any Indebtedness in connection with the application of recapitalization accounting or purchase accounting in connection with the Transactions or any acquisition,

(viii) amortization, expensing or write-off of deferred financing fees, amendment and consent fees, debt issuance costs, debt discount or premium, terminated hedging obligations and other commissions, fees and expenses, discounted liabilities, original issue discount and any other amounts of non-cash interest and, adjusted to the extent included, to exclude any refunds or similar credits received in connection with the purchasing or procurement of goods or services under any purchasing card or similar program,

(ix) any expensing of bridge, arrangement, structuring, commitment, agency, consent and other financing fees and any other fees related to the Transactions or any acquisitions after the Closing Date,

(x) any accretion of accrued interest on discounted liabilities and any prepayment, make-whole or breakage premium, penalty or cost,

(xi) interest expense with respect to Indebtedness of any direct or indirect parent of such Person resulting from push-down accounting,

(xii) any lease, rental or other expense in connection with a Non-Financing Lease Obligations, and

(xiii) any interest expense attributable to any actual or prospective legal settlement, fine, judgment or order; *plus*

(2) consolidated capitalized interest of such Person and its Restricted Subsidiaries for such period, whether paid or accrued;

less

(3) interest income for such period.

For purposes of this definition, interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by such Person to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP.

"**Consolidated Net Income**" means, with respect to any Person for any period, the net income (loss) of such Person and its Restricted Subsidiaries for such period determined on a consolidated basis in accordance with GAAP and before any reduction in respect of Preferred Stock dividends; *provided*, *however*, that there will not be included in such Consolidated Net Income:

(1) any net income (loss) of any Person if such Person is not a Restricted Subsidiary (including any net income (loss) from investments recorded in such Person under the equity method of accounting), except that the Company's equity in the net income of any such Person for such period will be included in such Consolidated Net Income up to the aggregate amount of cash or Cash Equivalents actually distributed (or to the extent converted into cash or Cash Equivalents) or that (as determined by the Company in its reasonable discretion) could have been distributed by such Person during such period to the Company or a Restricted Subsidiary as a dividend or other distribution or return on investment;

(2) solely for the purpose of determining the amount available for Restricted Payments under clause (b)(i) of Section 7.05(a), any net income (loss) of any Restricted Subsidiary (other than the Guarantors) if such Subsidiary is subject to restrictions, directly or indirectly, on the payment of dividends or the making of distributions by such Restricted Subsidiary, directly or indirectly, to the Company or any Guarantor by operation of the terms of such Restricted Subsidiary's articles, charter or any agreement, instrument, judgment, decree, order, statute or governmental rule or regulation applicable to such Restricted Subsidiary or its stockholders (other than (a) restrictions that have been waived or otherwise released (or such Person reasonably believes such restriction could be waived or released and is using commercially reasonable efforts to pursue such waiver or release), (b) restrictions pursuant to this Agreement, the Senior Secured Notes, the Senior Secured Notes Documents or other similar indebtedness and (c) restrictions specified in clause (14)(i) of Section 7.06(b)), except that the Company's equity in the net income of any such Restricted Subsidiary for such period will be included in such Consolidated Net Income up to the aggregate amount of cash or Cash Equivalents actually distributed (or to the extent converted, or having the ability to be converted, into cash or Cash Equivalents) or that could have been distributed by such Restricted Subsidiary during such period to the Company or another Restricted Subsidiary as a dividend or other distribution (subject, in the case of a dividend to another Restricted Subsidiary, to the limitation contained in this clause);

(3) any gain (or loss) (a) in respect of facilities no longer used or useful in the conduct of the business of the Company or its Restricted Subsidiaries, abandoned, transferred, closed, disposed or discontinued operations, (b) on disposal, abandonment or discontinuance of disposed, abandoned, transferred, closed or discontinued operations, and (c) attributable to asset dispositions, abandonments, sales or other dispositions of any asset (including pursuant to any Sale and Leaseback Transaction) or the designation of an Unrestricted Subsidiary other than in the ordinary course of business;

(4) (a) any extraordinary, exceptional, unusual, infrequently occurring or nonrecurring loss, charge or expense, as well as Transaction Costs, Public Company Costs, restructuring and duplicative running costs, restructuring charges or reserves (whether or not classified as restructuring expense on the consolidated financial statements), relocation costs, start-up or initial costs for any project or new production line, division or new line of business, integration and facilities' or bases' opening costs, facility consolidation and closing costs, severance costs and expenses, one-time charges (including compensation charges), payments made pursuant to the terms of change in control agreements that the Company or a Subsidiary or a direct or indirect parent of the Company had entered into with employees of the Company or a Subsidiary or a direct or indirect parent of the Company,

costs relating to pre-opening, opening and conversion costs for facilities, losses, costs or cost inefficiencies related to project terminations, facility or property disruptions or shutdowns (including due to work stoppages, natural disasters and epidemics), signing, retention and completion bonuses (including management bonus pools), recruiting costs, costs incurred in connection with any strategic or cost savings initiatives, transition costs, contract terminations, litigation and arbitration fees, costs and charges, expenses in connection with one-time rate changes, costs incurred with acquisitions, investments and dispositions (including travel and out-of-pocket costs), human resources costs (including relocation bonuses), litigation and arbitration costs, charges, fees and expenses (including settlements), management transition costs, advertising costs, losses associated with temporary decreases in work volume and expenses related to maintain underutilized personnel and non-recurring product and intellectual property development, other business optimization expenses or reserves (including costs and expenses relating to business optimization programs and new systems design and costs or reserves associated with improvements to IT and accounting functions), retention charges (including charges or expenses in respect of incentive plans), system establishment costs and implementation costs, and operating expenses attributable to the implementation of strategic or cost-savings initiatives, and curtailments or modifications to pension and post-retirement employee benefit plans (including any settlement of pension liabilities and charges resulting from changes in estimates, valuations and judgments) and professional, legal, accounting, consulting and other service fees incurred with any of the foregoing (in each case, as applicable, whether or not consummated), and

(b) any charge, expense, cost, accrual or reserve of any kind associated with acquisition related litigation and settlements thereof;

(5) (a) at the election of the Company with respect to any quarterly period, the cumulative effect (including charges, accruals, expenses and reserves) of a change in law, regulation or accounting principles and changes as a result of the adoption, implementation or modification of accounting policies, including the adoption,

(b) subject to the last paragraph of the definition of "GAAP," the cumulative effect of a change in accounting principles and changes as a result of the adoption or modification of accounting policies during such period (including any impact resulting from an election by the Company to apply IFRS or other Accounting Changes), and

(c) any costs, charges, losses, fees or expenses in connection with the implementation or tracking of such changes or modifications specified in the foregoing clauses (a) and (b), in each case as reasonably determined by the Company;

(6) (a) any equity-based or non-cash compensation or similar charge, cost or expense or reduction of revenue, including any such charge, cost, expense or reduction arising from any grant of stock, stock appreciation or similar rights, stock options, restricted stock, phantom equity, profits interests or other interests, or other rights or equity- or equity-based incentive programs ("**equity incentives**"), any income (loss) associated with the equity incentives or other long-term incentive compensation plans (including under deferred compensation arrangements of the Company or any direct or indirect parent thereof or any Subsidiary and any positive investment income with respect to funded deferred compensation account balances), roll-over, acceleration or payout of Capital Stock by employees, directors, officers, managers, contractors, consultants, advisors or business partners (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Company or any direct or indirect parent thereof or any Subsidiary, and any cash awards granted to employees of the Company and its Subsidiaries in replacement for forfeited awards,

(b) any non-cash losses attributable to deferred compensations plans or trusts or realized in such period in connection with adjustments to any employee benefit plan due to changes in estimates, actuarial assumptions, valuations, studies or judgments,

(c) non-cash compensation expense resulting from the application of Accounting Standards Codification Topic 718, Compensation—Stock Compensation or Accounting Standards Codification Topics 505-50, Equity-Based Payments to Non-Employees (or any successor provision or other financial accounting standard having a similar result or effect), and

(d) any net pension or post-employment benefit costs representing amortization of unrecognized prior service costs, actuarial losses, amortization of such amounts arising in prior periods, amortization of the unrecognized obligation (and loss or cost) existing at the date of initial application of Statement of Financial Accounting Standards No. 87, 106 and 112—Employee Benefits (or any successor provision or other financial accounting standard having a similar result or effect), and any other item of a similar nature;

(7) any income (loss) from the extinguishment, conversion or cancellation of Indebtedness, Swap Obligations or other derivative instruments (including deferred financing costs written off, premiums paid or other expenses incurred);

(8) any unrealized or realized gains or losses in respect of any Swap Obligations or any ineffectiveness recognized in earnings related to hedge transactions or the fair value of changes therein recognized in earnings for derivatives that do not qualify as hedge transactions;

(9) any fees, losses, costs, expenses or charges incurred during such period (including any transaction, retention bonus or similar payment), or any amortization thereof for such period, in connection with (a) any acquisition, recapitalization, Investment, Asset Disposition, disposition, issuance or repayment of Indebtedness (including such fees, expense or charges related to the offering, issuance and rating of the Senior Secured Notes, other securities and any credit facilities (including the Facilities)), issuance of Capital Stock, refinancing transaction or amendment or modification of any debt instrument (including any amendment or other modification of the Senior Secured Notes, other securities and any credit facilities (including the Facilities)), in each case, including the Transactions, any such transaction consummated prior to, on or after the Closing Date and any such transaction undertaken but not completed, and any charges or non-recurring merger costs incurred during such period as a result of any such transaction, in each case whether or not successful (including, for the avoidance of doubt, the effects of expensing all transaction-related expenses in accordance with Accounting Standards Codification Topic 805—Business Combinations (or any successor provision or other financial accounting standard having a similar result or effect) and (if applicable) any adjustments resulting from the application of Accounting Standards Codification Topic 460—Guarantees (or any successor provision or other financial accounting standard having a similar result or effect) or any related pronouncements) and (b) complying with the requirements under, or making elections permitted by, the documentation governing any Indebtedness;

(10) any unrealized or realized gain or loss resulting in such period from currency translation increases or decreases or transaction gains or losses, including those related to currency remeasurements of Indebtedness (including any net loss or gain resulting from Swap Obligations for currency risk), intercompany loans, accounts receivables, accounts payable, intercompany balances, other balance sheet items, Swap Obligations or other obligations of the Company or any Restricted Subsidiary owing to the Company or any Restricted Subsidiary and any other realized or unrealized foreign exchange gains or losses relating to the translation of assets and liabilities denominated in foreign currencies;

(11) any unrealized or realized income (loss) or non-cash expense attributable to movement in mark-to-market valuation of foreign currencies, Indebtedness or derivative instruments pursuant to GAAP;

(12) effects of adjustments (including the effects of such adjustments pushed down to such Person and its Restricted Subsidiaries) in such Person's consolidated financial statements pursuant to GAAP (including, if applicable, those required or permitted by Accounting Standards Codification Topic 805—Business Combinations and (if applicable) Accounting Standards Codification Topic 350—Intangibles-Goodwill and Other (or any successor provision or other financial accounting standard having a similar result or effect) and related pronouncements), including in the inventory (including any impact of changes to inventory valuation policy methods, including changes in capitalization of variances), property and equipment, software, loans, leases, goodwill, intangible assets, in-process research and development, deferred revenue (including deferred costs related thereto and deferred rent) and debt line items thereof, resulting from the application of acquisition method accounting, recapitalization accounting or purchase accounting, as applicable, in relation to the Transactions or any consummated acquisition (by merger, consolidation, amalgamation or otherwise), joint venture investment or other Investment or the amortization or write-off or write-down of any amounts thereof;

(13) any impairment charge, write-off or write-down, including impairment charges, write-offs or write-downs related to intangible assets, long-lived assets, goodwill, investments in debt or equity securities (including any losses with respect to the foregoing in bankruptcy, insolvency or similar proceedings) and investments recorded using the equity method or as a result of a change in law or regulation, in connection with any disposition of assets and the amortization of intangibles arising pursuant to GAAP;

(14) (a) accruals and reserves (including contingent liabilities) that are established or adjusted in connection with the Transactions or within 24 months after the closing of any acquisition or disposition that are so required to be established or adjusted as a result of such acquisition or disposition in accordance with GAAP, or changes as a result of adoption or modification of accounting policies, and

(b) earn-out, non-compete and contingent consideration obligations (including to the extent accounted for as bonuses, compensation or otherwise (and including deferred performance incentives in connection with any acquisition (by merger, consolidation, amalgamation or otherwise), joint venture investment or other Investment whether or not a service component is required from the transferor or its related party)) and adjustments thereof and purchase price adjustments, including any mark-to-mark adjustments;

(15) any income (loss) related to any realized or unrealized gains and losses resulting from Swap Obligations or embedded derivatives that require similar accounting treatment (including embedded derivatives in customer contracts), and the application of Accounting Standards Codification Topic 815—Derivatives and Hedging (or any successor provision or other financial accounting standard having a similar result or effect) and its related pronouncements or mark to market movement of non-U.S. currencies, Indebtedness, derivatives instruments or other financial instruments pursuant to GAAP, including (if applicable) Accounting Standards Codification Topic 825—Financial Instruments (or any successor provision or other financial accounting standard having a similar result or effect) or an alternative basis of accounting applied in lieu of GAAP;

(16) any non-cash expenses, accruals or reserves related to adjustments to historical tax exposures and any deferred tax expense associated with tax deductions or net operating losses arising as a result of the Transactions, or the release of any valuation allowances related to such item;

(17) the amount of (x) Board of Directors (or equivalent thereof) fees, management, monitoring, consulting, refinancing, transaction, advisory and other fees (including exit and termination fees) and indemnities, costs and expenses paid or accrued in such period to any member of the Board of Directors (or the equivalent thereof) of the Company, any of its Subsidiaries or any direct or indirect parent of the Company, and (y) payments made to option holders of the Company or any direct or indirect parent thereof in connection with, or as a result of, any distribution being made to equityholders of such Person or its direct or indirect parent, which payments are being made to compensate such option holders as though they were equityholders at the time of, and entitled to share in, such distribution, including any cash consideration for any repurchase of equity;

(18) the amount of loss or discount on sale of Securitization Assets, Receivables Assets and related assets in connection with a Qualified Securitization Financing or Receivables Facility;

(19) (i) at the election of the Company, payments to third parties in respect of research and development, including amounts paid upon signing, success, completion and other milestones and other progress payments, to the extent expensed, and

(ii) at the election of the Company with respect to any quarterly period, effects of adjustments to accruals and reserves during a period relating to any change in the methodology of calculating reserves for returns, rebates and other chargebacks (including government program rebates);

(20) (i) the non-cash portion of "straight-line" rent expense will be excluded and

(ii) the cash portion of "straight-line" rent expense that exceeds the amount expensed in respect of such rent expense will be included; and

(21) non-cash charges relating to increases or decreases of deferred tax asset valuation allowances.

In addition, to the extent not already excluded (or included, as applicable) from the Consolidated Net Income of such Person and its Restricted Subsidiaries, notwithstanding anything to the contrary in the foregoing, Consolidated Net Income shall be increased by the amount of: (i) any expenses, charges or losses that are reimbursed by indemnification or other reimbursement provisions in connection with any investment or any sale, conveyance, transfer or other disposition of assets permitted hereunder, or, so long

as the Company has made a determination that there exists reasonable evidence that such amount will in fact be reimbursed within 365 days of the date of such evidence (net of any amount so added back in a prior period to the extent not so reimbursed within the applicable 365-day period) and (ii) to the extent covered by insurance (including business interruption insurance) and actually reimbursed, or, so long as the Company has made a determination that there exists reasonable evidence that such amount will in fact be reimbursed by the insurer and only to the extent that such amount is in fact reimbursed within 365 days of the date of such evidence (net of any amount so added back in a prior period to the extent not so reimbursed within the applicable 365-day period), expenses, charges or losses (including lost profits) with respect to liability or Casualty Events or business interruption. Consolidated Net Income shall be reduced by the amount of distributions for or payments of Permitted Tax Amounts actually made to any direct or indirect parent of such Person in respect of such period in accordance with clause 9(a) of Section 7.05(b), as though such amounts had been paid as Taxes directly by such Person for such periods.

"**Consolidated Senior Secured Net Leverage Ratio**" means, as of any date of determination, the ratio of (a) Consolidated Funded Senior Secured Indebtedness of the Restricted Group as of such date to (b) LTM EBITDA, in each case, calculated on a pro forma basis in a manner consistent with Section 1.10.

"**Consolidated Total Net Leverage Ratio**" means, as of any date of determination, the ratio of (a) Consolidated Funded Indebtedness of the Restricted Group as of such date to (b) LTM EBITDA, in each case, calculated on a pro forma basis in a manner consistent with Section 1.10.

"**Contingent Obligations**" means, with respect to any Person, any obligation of such Person guaranteeing in any manner, whether directly or indirectly, any Non-Financing Lease Obligation, dividend or other obligation that does not constitute Indebtedness ("**primary obligations**") of any other Person (the "**primary obligor**"), 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 the 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.

"**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.

"**Controlled Investment Affiliate**" means, as to any Person, any other Person, which directly or indirectly is in control of, is controlled by, or is under common control with such Person and is organized by such Person (or any Person controlling such Person) primarily for making direct or indirect equity or debt investments in the Company and/or other companies.

"**Converted Restricted Subsidiary**" has the meaning specified in the definition of the term "Consolidated EBITDA."

"**Converted Unrestricted Subsidiary**" has the meaning specified in the definition of the term "Consolidated EBITDA."

"**Covered Entity**" has the meaning specified in Section 10.25(b).

"**Credit Agreement Refinancing Debt**" means one or more series of (I) senior unsecured loans or notes, (II) senior secured loans or notes secured by a lien on the Collateral on a *pari passu* basis with the Initial Term Loans, (III) senior secured loans or notes secured by a lien on the Collateral on a junior basis to the Initial Term Loans or (IV) senior secured loans or notes secured by a Lien on assets not constituting Collateral, in each case issued in respect of a refinancing of outstanding Indebtedness of any Borrower under any one or more Term Loan Tranches or Revolving Tranches; *provided* that,

(a) such Credit Agreement Refinancing Debt shall comply with the Incremental Debt Lien/Guarantee Parameters;

(b) if in the form of a term loan facility or notes, such Credit Agreement Refinancing Debt, other than with respect to (I) the initial maturity date for Extendable Bridge Loans/Interim Debt or (II) an aggregate principal amount of term loans not in excess of the Inside Maturity Basket at the time of Incurrence, shall not (i) mature prior to the Latest Maturity Date of the Term Loan Tranche being refinanced or (ii) be subject to any amortization prior to the final maturity thereof (except if such Credit Agreement Refinancing Debt is in the form of term loans that are secured on a *pari passu* basis with the Initial Term Loans, customary amortization not to exceed 1.0% per annum), or be subject to any mandatory redemption or prepayment provisions or rights (except (x) customary assets sale, casualty events or similar event, change of control provisions, special mandatory redemptions in connection with customary escrow arrangements, prepayments with excess cash flow (or similar metrics) and proceeds of prohibited indebtedness, and customary acceleration rights after an event of default and (y) customary AHYDO Catch-up Payments); and

(c) the Net Cash Proceeds of such Credit Agreement Refinancing Debt shall be applied, substantially concurrently with the incurrence thereof, to the repayment or prepayment of outstanding Term Loans under the applicable Term Loan Tranche being so refinanced or to the prepayment and termination of Commitments of outstanding Revolving Credit Loans under the applicable Revolving Tranche being so refinanced, as applicable, and the payment of fees, expenses and premiums, if any, payable in connection therewith.

"**Credit Extension**" means each of the following: (a) a Borrowing and (b) an L/C Credit Extension.

"**Custodian**" has the meaning specified in Section 8.01(f)(iii).

"**Daily Simple SOFR**" means, for any day, SOFR, with the conventions for this rate (which will include a lookback) being established by the Administrative Agent in accordance with the conventions for this rate selected or recommended by the Relevant Governmental Body for determining "Daily Simple SOFR" for syndicated business loans; *provided* that if the Administrative Agent decides that any such convention is not administratively feasible for the Administrative Agent, then the Administrative Agent may establish another convention in its reasonable discretion.

"**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, 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.

"**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 SOFR Loans or Eurocurrency Rate Loans, the determination of the applicable interest rate is subject to Section 2.02(c) to the extent that SOFR Loans or Eurocurrency Rate Loans may not be converted to, or continued as, SOFR Loans or Eurocurrency Rate Loans, as applicable, pursuant thereto) and (b) with respect to any other overdue amount, including overdue interest, the applicable interest rate for ABR Loans *plus* 2.00% per annum, in each case, to the fullest extent permitted by applicable Laws.

"**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 three Business Days of the date required to be funded by it hereunder, (b) has notified the Company 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, (c) has failed, within three Business Days after reasonable request by the Administrative Agent, to confirm in a manner satisfactory to the Administrative Agent 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) 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 a custodian appointed for it, (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 the subject of 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 a 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 Company, each L/C Issuer and each Lender, as applicable.

"**Designated Non-Cash Consideration**" means the fair market value (as determined in good faith by the Company) of non-cash consideration received by the Company or any of its Restricted Subsidiaries in connection with an Asset Disposition as designated by the Company, which designation may be made at or after the time of the applicable Asset Disposition, less the amount of cash or Cash Equivalents received in connection with a subsequent payment, redemption, retirement, sale or other disposition of such Designated Non-Cash Consideration. A particular item of Designated Non-Cash Consideration will no longer be considered to be outstanding when and to the extent it has been paid, redeemed or otherwise retired or sold or otherwise disposed of in compliance with Section 7.04.

"**Designated Preferred Stock**" means Preferred Stock of the Company or a direct or indirect parent thereof (other than Disqualified Stock) that is issued for cash (other than to the Company or a Subsidiary of the Company or an employee stock ownership plan or trust established by the Company or any such Subsidiary for the benefit of their employees to the extent funded by the Company or such Subsidiary) and that is designated as "Designated Preferred Stock" pursuant to a certificate of a Responsible Officer of the Company at or prior to the issuance thereof, the Net Cash Proceeds of which are excluded from the calculation set forth in clause (b)(iii) of Section 7.05(a).

"**Designation Date**" has the meaning specified in Section 2.19(f).

"**Determination Date**" has the meaning specified in clause (1)(u)(1) of the definition of "Consolidated EBITDA."

"**Disinterested Director**" means, with respect to any Affiliate Transaction, a member of the Board of Directors having no material direct or indirect financial interest in or with respect to such Affiliate Transaction. A member of the Board of Directors shall be deemed not to have such a financial interest by reason of such member's holding Capital Stock of the Company or any Parent Entity or any options, warrants or other rights in respect of such Capital Stock.

"**Disposed EBITDA**" means, with respect to any Sold Entity or Business or any Converted Unrestricted Subsidiary for any period, the amount for such period of Consolidated EBITDA of such Sold Entity or Business or such Converted Unrestricted Subsidiary, all as determined on a consolidated basis for such Sold Entity or Business or such Converted Unrestricted Subsidiary.

"**Disposition**" has the meaning specified in the definition of "Asset Disposition."

"**Disqualified Institution**" means (a) each person identified as a "Disqualified Institution" on a list delivered to the Arrangers by the Company on or prior to January 12, 2022 (as such list may be updated from time to time after the Closing Date with the Administrative Agent's consent (such consent not to be unreasonably withheld, conditioned or delayed)), (b) any Company Competitor identified on a list delivered to the Administrative Agent by the Company on or prior to January 12, 2022 (as such list may be updated from time to time after the Closing Date) 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 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 the investment policies of such entity; *provided* that any additional designation permitted by the foregoing shall not apply retroactively to any prior assignment or any pending assignment to any Lender or Participant.

"**Disqualified Stock**" means, with respect to any Person, any Capital Stock of such Person which by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable) or upon the happening of any event:

(1) matures or is mandatorily redeemable for cash or in exchange for Indebtedness pursuant to a sinking fund obligation or otherwise; or

(2) is or may become (in accordance with its terms) upon the occurrence of certain events or otherwise redeemable or repurchasable for cash or in exchange for Indebtedness at the option of the holder of the Capital Stock in whole or in part,

in each case on or prior to the earlier of 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*, *however*, that (i) only the portion of Capital Stock which 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 will be deemed to be Disqualified Stock and (ii) any Capital Stock that would constitute Disqualified Stock solely because the holders thereof have the right to require the issuer thereof to repurchase such Capital Stock upon the occurrence of a change of control or asset sale (howsoever defined or referred to) shall not constitute Disqualified Stock if any such redemption or repurchase obligation is subject to compliance by the relevant Person with Section 7.05; *provided*, *further*, that if such Capital Stock is issued to any future, current or former employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Company, any of its Subsidiaries, any direct or indirect parent of the Company or any other entity in which the Company or a Restricted Subsidiary has an Investment and is designated in good faith as an "affiliate" by the Board of Directors (or the compensation committee thereof) or any other plan for the benefit of current, former or future employees (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Company or its Subsidiaries or by any such plan to such employees (or their respective Controlled Investment Affiliates or Immediate Family Members), such Capital Stock shall not constitute Disqualified Stock solely because it may be required to be repurchased by the Company or its Subsidiaries in order to satisfy applicable statutory or regulatory obligations.

"**Distressed Agent-Related Person**" has the meaning specified in the definition of "Agent-Related Distress Event."

"**Divided LLC**" means a limited liability company which has been formed upon the consummation of an LLC Division.

"**Dollar**" and "**$**" mean lawful money of the United States.

"**Dollar Amount**" means, at any time:

(a) with respect to any Loan or Letter of Credit denominated in Dollars, the principal amount thereof then outstanding (or in which such participation is held);

(b) with respect to any Loan denominated in an Alternative Currency or other currency other than Dollars, the principal amount thereof then outstanding in the relevant Alternative Currency, converted to Dollars in accordance with Section 1.08; and

(c) in relation to any Letter of Credit denominated in an Alternative Currency, the principal amount of L/C Obligations in respect thereof converted to Dollars at the Agent's Spot Rate of Exchange at the time of issuance of any Letter of Credit and as of the first Business Day of each calendar month thereafter so long as such Letter of Credit remains outstanding.

"**ECF Prepayment Amount**" has the meaning specified in Section 2.05(b)(i)(8).

"**EEA Financial Institution**" means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clause (a) or (b) of this definition and is subject to consolidated supervision with its parent.

"**EEA Member Country**" means any of the member states 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 delegee) having responsibility for the resolution of any EEA Financial Institution.

"**Effective Extension Incremental Facility**" has the meaning specified in Section 2.14(a).

"**Election Date**" has the meaning specified in Section 7.05.

"**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(b)(iii)).

"**EMU**" means the economic and monetary union as contemplated in the EU Treaty.

"**EMU Legislation**" means the legislative measures of the EMU for the introduction of, changeover to, or operation of the Euro in one or more member states.

"**Enterprise Transformative Event**" means any merger, acquisition, amalgamation, investment, dividend recapitalization, dissolution, liquidation, consolidation or disposition that either (a) is 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 Company 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 Company acting in good faith.

"**Environment**" means ambient air, indoor air, surface water, groundwater, drinking water, land surface, sediments, and subsurface strata and natural resources such as wetlands, flora and fauna.

"**Environmental Laws**" means any and all applicable federal, state, provincial, territorial, local and foreign statutes, laws, including common law, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses or governmental restrictions relating to pollution, the protection of the Environment, and human health and safety (to the extent relating to exposure to Hazardous Materials), including those related to Hazardous Materials, air emissions and discharges to public pollution control systems.

"**Environmental Liability**" means any liability (including any liability for damages, costs of environmental remediation, monitoring or oversight by a Governmental Authority, fines, penalties or indemnities) directly or indirectly resulting from or based upon (a) any actual or alleged violation of any Environmental Law, (b) the generation, use, handling, transportation, storage or treatment 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 to the extent liability is assumed or imposed with respect to any of the foregoing.

"**Environmental Permit**" means any permit, approval, identification number, license or other authorization required under any Environmental Law.

"**equity incentives**" has the meaning specified in the definition of "Consolidated Net Income."

"**Equity Interests**" means Capital Stock and all warrants, options or other rights to acquire Capital Stock (but excluding (x) any Capital Stock that arises only by reason of the happening of a contingency that is outside the control of the holder of such Capital Stock or any debt security that is convertible into, or exchangeable for, Capital Stock and (y) Permitted Call Spread Swap Agreements).

"**Equity Offering**" means (x) a sale of Capital Stock (other than through the issuance of Disqualified Stock or Designated Preferred Stock or through an Excluded Contribution) other than (a) offerings registered on Form S-8 (or any successor form) under the Securities Act or any similar offering in other jurisdictions or other securities of the Company or any Parent Entity and (b) issuances of Capital Stock to any Subsidiary of the Company or (y) a cash equity contribution to the Company.

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

"**ERISA Affiliate**" means any Person who together with any Loan Party 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(b) of ERISA.

"**ERISA Event**" means (a) a Reportable Event with respect to a Plan; (b) the withdrawal of any Loan Party 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 ERISA Affiliate from a Multiemployer Plan or 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 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, or the receipt of any notice by any Loan Party or any ERISA Affiliate from the PBGC or a plan administrator indicating an intent by the PBGC to institute, 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 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 Foreign Benefit Event.

"**Erroneous Payment**" has the meaning assigned to it in Section 9.19(a).

"**Erroneous Payment Deficiency Assignment**" has the meaning assigned to it in Section 9.19(d)(i).

"**Erroneous Payment Impacted Class**" has the meaning assigned to it in Section 9.19(d)(i).

"**Erroneous Payment Return Deficiency**" has the meaning assigned to it in Section 9.19(d)(i).

"**Erroneous Payment Subrogation Rights**" has the meaning assigned to it in Section 9.19(e).

"**EU Bail-In Legislation Schedule**" means the EU Bail-In Legislation Schedule 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.

"**EURIBOR Rate**" means, with respect to any Revolving Credit Borrowing denominated in Euros and for any Interest Period, the EURIBOR Screen Rate.

"**EURIBOR Screen Rate**" means the Euro interbank offered rate administered by the European Money Markets Institute (or any other person which takes over the administration of that rate) for the relevant period displayed (before any correction, recalculation or republication by the administrator) on page EURIBOR01 of the Thomson Reuters screen (or any replacement Thomson Reuters page which displays that rate) or on the appropriate page of such other information service which publishes that rate from time to time in place of Thomson Reuters as published at approximately 11:00 a.m. (Brussels time) two TARGET Days prior to the commencement of such Interest Period. If such page or service ceases to be available, the Administrative Agent may specify another page or service displaying the relevant rate after consultation with the Borrower.

"**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.

"**Eurocurrency Rate**" means, for any Eurocurrency Rate Loan for any Interest Period: (i) denominated in Euros, the EURIBOR Rate; and (ii) denominated in any Additional Alternative Currency (other than a currency referenced in clause (i) above), the rate designated with respect to such currency at the time such currency is approved by the Administrative Agent and the applicable Lenders pursuant to Section 2.21, as applicable.

"**Eurocurrency Rate Borrowing**" means, as to any Borrowing, the Eurocurrency Rate Loans comprising such Borrowing.

"**Eurocurrency Rate Loan**" means a Loan that bears interest based upon a Eurocurrency Rate.

"**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) Consolidated Net Income of the Restricted Group for such Excess Cash Flow Period,

(b) without duplication (in each case, for the Restricted Group on a consolidated basis):

(i) *minus*, repayments, prepayments, repurchases, redemptions and other cash payments made with respect to the principal of any Indebtedness (including principal representing capitalized interest) or the principal component of any Capitalized Lease Obligations of such Person or any of its Restricted Subsidiaries during such period (excluding (A) repayments and prepayments of Indebtedness deducted from the amount of Term Loans required to be prepaid pursuant to clause (1) or (4) of Section 2.05(b)(i)(B) and (B) voluntary and mandatory prepayments of Term Loans), but 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 such payments are not

otherwise prohibited under this Agreement) and all repayments with respect to revolving Indebtedness to the extent accompanied by a corresponding permanent reduction in commitments (excluding repayments of Indebtedness deducted from the amount of Term Loans required to be prepaid pursuant to clause (1) or (4) of Section 2.05(b)(i)(B)); *provided* that, with respect to any mandatory prepayment of Indebtedness (other than, for the avoidance of doubt, Term Loans), such prepayments shall only be deducted pursuant to this clause (B) to the extent not deducted in the computation of net proceeds in respect of the asset disposition or condemnation giving rise thereto; *minus*

(ii) (A) payments made in cash or accrued by such Person or any of its Restricted Subsidiaries during such period in respect of Restricted Payments (excluding Restricted Payments made pursuant to clause (17)(ii) of Section 7.05(b)) and (B) payments made in cash or accrued in respect of Restricted Payments reducing mandatory prepayments of the Term Loans pursuant to clause (8) of Section 2.05(b)(i)(B), in each case other than to the extent that any such Restricted Payments are funded with long-term Indebtedness or Capital Stock; *minus*

(iii) (A) cash payments made by such Person or any of its Restricted Subsidiaries during such period in respect of Taxes (including distributions and payments for Permitted Tax Amounts), to the extent such payments exceed the amount of tax expense deducted in calculating such Consolidated Net Income and the amount of Tax reserves set aside or payable; (B) cash payments that such Person or any of its Restricted Subsidiaries will be required to make in respect of Taxes (including distributions to any Parent Holding Company 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; *minus*

(iv) (A) cash payments made by such Person or any of its Restricted Subsidiaries during such period in respect of Investments (including, without limitation, any acquisitions and acquisitions of intellectual property) (other than any of the foregoing reducing mandatory prepayments of the Term Loans pursuant to Section 2.05(b)(i)(B)(6)) and (B) cash payments that such Person or any Restricted Subsidiaries has committed to make or is required to make or plans to make in respect of Investments (including, without limitation, any acquisitions and acquisitions of intellectual property) or capital expenditures planned to be consummated or made, in each case, during the period of four consecutive fiscal quarters of the Company following the end of such fiscal year (other than any of the foregoing reducing mandatory prepayments of the Term Loans pursuant to Section 2.05(b)(i)(B)(7)); *provided* that amounts described in 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; *minus*

(v) all cash payments and other cash expenditures made by such Person or any of its Restricted Subsidiaries during such period (other than capital expenditures reducing mandatory prepayments of the Term Loans pursuant to Section 2.05(b)(i)(B)(5)) that were not included in determining Consolidated Net Income during such period; *minus*

(vi) all non-cash credits or gains included in calculating such Consolidated Net Income (including insured or indemnified losses referred to in the definition of "Consolidated Net Income" to the extent not reimbursed in cash during such period); *minus*

(vii) an amount equal to the sum of (A) the increase in the Working Capital of such Person during such period (measured as the excess, if any, of Working Capital at the end of such Excess Cash Flow Period *minus* Working Capital at the beginning of such Excess Cash Flow Period), if any, *plus* (B) the increase in long-term accounts receivable of such Person and its Restricted Subsidiaries, if any; *minus*

(viii) cash payments made in satisfaction of noncurrent liabilities (excluding payments of Indebtedness for borrowed money) not made directly or indirectly using proceeds, payments or any other amounts available from events or circumstances that were not included in determining Consolidated Net Income during such period; *minus*

(ix) to the extent not deducted in arriving at Consolidated Net Income, cash fees, expenses and purchase price adjustments (including purchase price holdbacks and earn-out obligations) incurred in connection with the Transactions, any acquisition consummated before or after the Closing Date or any Permitted Investment, equity issuance or debt issuance, dispositions, repayment of indebtedness, refinancing transactions (including any amendments) (whether or not consummated) and any Restricted Payment made to pay any of the foregoing incurred by the Company or any direct or indirect parent of the Company (other than those reducing mandatory prepayments of the Term Loans pursuant to Section 2.05(b)(i)(B)(6)); *minus*

(x) the amount of cash payments made in respect of pensions and other post-employment benefits in such period to the extent not deducted in arriving at such Consolidated Net Income; *minus*

(xi) cash payments made by such Person or any of its Restricted Subsidiaries during such period in respect of items for which an accrual or reserve was established in a prior period, in each case to the extent such payments are not expensed during such period or are not deducted in calculating Consolidated Net Income; *plus*

(xii) all non-cash charges, losses and expenses (including, without limitation, taxes) of such Person or any of its Restricted Subsidiaries that were deducted in calculating such Consolidated Net Income (*provided*, in each case, that if any non-cash charge represents an accrual or reserve for cash items in any future period, the cash payment in respect thereof in such future period shall be subtracted from Excess Cash Flow in such future period); *minus*

(xiii) cash payments made in respect of decreases in current and non-current deferred revenue during such period; *minus*

(xiv) cash expenditures in respect of Swap Obligations during such period to the extent not deducted in arriving at such Consolidated Net Income; *plus*

(xv) an amount equal to the sum of (A) the decrease in Working Capital of such Person during such period (measured as the excess, if any, of Working Capital at the beginning of such Excess Cash Flow Period *minus* Working Capital at the end of such Excess Cash Flow Period), if any, *plus* (B) the decrease in long-term accounts receivable of such Person and its Restricted Subsidiaries, if any (other than any such decreases contemplated by clauses (A) and (B) of this clause (xv) that are (x) directly attributable to acquisitions and/or dispositions of a Person or business unit by the Restricted Group during such period, (y) as a result of the reclassification of items from short-term to long-term or vice versa or (z) the application of recapitalization or purchase accounting); *plus*

(xvi) all amounts referred to in clauses (b)(i), (b)(ii) and (b)(iv) above to the extent funded with the proceeds of the issuance or the incurrence of Indebtedness (other than proceeds of revolving loans) and the sale or issuance of Equity Interests.

"**Excess Cash Flow Period**" means any fiscal year of the Company, commencing with the fiscal year ending on September 30, 2023.

"**Exchange Act**" means the Securities Exchange Act of 1934, as amended, and the rules and regulations of the SEC promulgated thereunder, as amended.

"**Exchange Agent**" means (a) the Administrative Agent or (b) any other financial institution or advisor employed by the Company (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 2.20; *provided* that the Company 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 Company nor any of its Affiliates may act as the Exchange Agent.

"**Exchange Rate**" means on any day with respect to any currency other than Dollars, the rate at which such currency may be exchanged into Dollars in the London foreign exchange market at or about 11:00 a.m. London time (or New York City time, as applicable) on a particular day as displayed by ICE Data Services as the "ask price", or as displayed on such other information service which publishes that rate of exchange from time to time in place of ICE Data Services (or if such service ceases to be available, the equivalent of such amount in Dollars as determined by reference to such other publicly available service for displaying exchange rates as may be agreed upon by the Administrative Agent and the applicable Borrower, or, in the absence of such agreement, such Exchange Rate shall instead be the arithmetic average of the spot rates of exchange of the Administrative Agent in the market where its foreign currency exchange operations in respect of such currency are then being conducted), at or about 10:00 a.m. (New York City time) on such date for the purchase of Dollars for delivery two Business Days later.

"**Excluded Accounts**" means any account that is used solely as:

(1) payroll, healthcare and other employee wage and benefit accounts,

(2) tax accounts, including, without limitation, sales, use, payroll, and withholding tax accounts,

(3) escrow, defeasance and redemption accounts, in each case maintained for the benefit of a Person that is not a Loan Party

(4) fiduciary or trust accounts, in each case maintained for the benefit of a Person that is not a Loan Party

(5) cash collateral accounts subject to Permitted Liens solely to secure reimbursement obligations in respect of letters of credit (other than Letters of Credit); and

(6) the funds or other property held in or maintained for such purposes in any such account described in clauses (1) through (5).

"**Excluded Casualty Event**" means a Casualty Event relating to property or assets which, had they been disposed of immediately prior to the applicable Casualty Event, would not have constituted an "Asset Disposition".

"**Excluded Contributions**" means Net Cash Proceeds or property or assets received by the Company as capital contributions to the equity (other than through the issuance of Disqualified Stock or Designated Preferred Stock) of the Company after the Closing Date or from the issuance or sale (other than to a Restricted Subsidiary or an employee stock ownership plan or trust established by the Company or any Subsidiary of the Company for the benefit of their employees to the extent funded by the Company or any Restricted Subsidiary) of Capital Stock (other than Disqualified Stock or Designated Preferred Stock) of the Company.

"**Excluded Information**" has the meaning specified in Section 10.07(j).

"**Excluded Property**" means:

(a) any fee-owned real property and/or any real property leasehold or subleasehold interests,

(b) motor vehicles and other assets or goods subject to certificates of title to the extent a Lien thereon cannot be perfected by filing a UCC financing statement,

(c) goods, chattel paper, investment property, documents of title, instruments, money, intangibles and other assets to the extent a security interest in such goods, chattel paper, investment property, documents of title, instruments, money, intangibles and other assets would result in adverse tax consequences to the Company or the Restricted Group or any of their direct or indirect equity owners (including, without limitation, as a result of any law or regulation in any applicable jurisdiction similar to Section 956 of the Code), or material adverse regulatory or accounting consequences, in each case, as reasonably determined by the Company,

(d) any goods, chattel paper, investment property, documents of title, instruments, money, intangibles and other assets, in each case, of or in which pledges or security interests in favor of the Collateral Agent are prohibited by applicable Law (including any requirement to obtain the consent of any Governmental Authority or third person under such applicable Law, unless such consent has been obtained) or by any contract binding on such assets at the time of its acquisition and not entered into in contemplation thereof, as reasonably determined by the Company; *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 could not be rendered ineffective pursuant to the UCC or any other applicable Law or principles of equity and shall not apply to any proceeds or receivables thereof, the assignment of which is expressly deemed effective under the UCC or other applicable Law (respectively) notwithstanding such prohibition and (ii) in the event of the termination or elimination of any such prohibition contained in any applicable Law, a security interest in such goods, chattel paper, investment property, documents of title, instruments, money, intangibles and other assets shall be automatically and simultaneously granted under the applicable Collateral Documents and shall be included as Collateral,

(e) any governmental licenses or state or local franchises, charters and authorizations (but not the proceeds thereof), to the extent security interests in favor of the Collateral Agent in such licenses, franchises, charters or authorizations are prohibited or restricted thereby; *provided* that (i) any such limitation described in this clause (e) on the security interests granted shall only apply to the extent that any such prohibition or restriction could not be rendered ineffective pursuant to the Uniform Commercial Code of any applicable jurisdiction or any other applicable Law or principles of equity and shall not apply to any proceeds or receivables thereof, the assignment of which is expressly deemed effective under the UCC or other applicable Law (respectively) notwithstanding such prohibition 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 such licenses, franchises, charters or authorizations shall be included as Collateral,

(f) Equity Interests in (A) any Person (other than the Company and Wholly Owned Restricted Subsidiaries of the Company) to the extent and for so long as the pledge thereof in favor of the Collateral Agent is not permitted by the terms of such Person's joint venture agreement or other applicable Organization Documents; *provided* that such prohibition exists on the Closing Date or at the time such Equity Interests are acquired (so long as such prohibition did not arise in contemplation of the Closing Date or such acquisition), (B) any not-for-profit Subsidiary, (C) any Captive Insurance Subsidiary, (D) any special purpose securitization vehicle (or similar entity), (E) any Unrestricted Subsidiary, (F) any Person which is acquired after the Spin-Off Date to the extent and for so long as such Equity Interests are pledged in respect of Acquired Indebtedness permitted under this Agreement and such pledge constitutes a Permitted Lien and (G) (except to the extent perfected through the filing of a UCC financing statement) any Immaterial Subsidiary,

(g) any lease, license or other agreement or any goods or other property subject to a purchase money security interest, Capitalized Lease Obligation or similar arrangement, in each case, permitted under this Agreement, to the extent that a grant of a security interest therein would violate or invalidate such lease, license, capital lease 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 Uniform Commercial Code of any applicable jurisdiction, other than proceeds and receivables thereof, the assignment of which is expressly deemed effective under the Uniform Commercial Code of any applicable jurisdiction notwithstanding such prohibition,

(h) "intent-to-use" trademark applications prior to the filing of a "Statement of Use" or "Amendment to Allege Use",

(i) any goods or assets sold pursuant to a Qualified Securitization Financing or Receivables Facility or other factoring or receivables arrangement permitted hereunder,

(j) Margin Stock,

(k) cash pledged solely to secure letter of credit reimbursement obligations to the extent such letters of credit and such pledge are permitted by this Agreement (excluding Cash Collateral securing L/C Obligations under this Agreement),

(l) Excluded Accounts, or

(m) (A) Voting Stock in excess of 65.0% of the total combined voting power of all Voting Stock of any CFC, of any Non-U.S. Subsidiary or of any FSHCO, (B) any Equity Interests of any Subsidiary not directly owned by a Loan Party and (C) the Equity Interests in any Immaterial Subsidiary (except to the extent perfected through the filing of a UCC financing statement).

Other goods, chattel paper, investment property, documents of title, instruments, money, intangibles and other assets shall be deemed to be "Excluded Property" if the Administrative Agent and the Company agree in writing that the cost or other consequences of obtaining or perfecting a security interest in such goods, chattel paper, investment property, documents of title, instruments, money, intangibles or other assets is excessive in relation to either the value of such goods, chattel paper, investment property, documents of title, instruments, money, intangibles and other assets as Collateral or to the benefit of the Lenders of the security afforded thereby. 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 any direct or indirect Subsidiary of the Company that is:

(a) an Unrestricted Subsidiary,

(b) not a Wholly Owned Restricted Subsidiary of the Company (other than a Subsidiary that was a Wholly Owned Restricted Subsidiary and that ceases to be a Wholly Owned Restricted Subsidiary as a result of (x) a transaction that is not bona fide or (y) the sale of its Equity Interests with sole intention to release such Subsidiary from its Guarantee of the Obligations),

(c) an Immaterial Subsidiary,

(d) a FSHCO or a CFC (or any direct or indirect Subsidiary of a Subsidiary that is a FSHCO or CFC),

(e) [reserved],

(f) a Non-U.S. Subsidiary or any direct or indirect Subsidiary of a Non-U.S. Subsidiary,

(g) prohibited or restricted 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) prohibited or restricted from guaranteeing the Facilities by any Contractual Obligation in existence on the Spin-Off Date (but not entered into in contemplation thereof) and is listed on Schedule 1.01(e) hereto 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 an adverse tax consequence to the Company or the Restricted Group or any of their Subsidiaries or direct or indirect equity owners (including, without limitation, as a result of any law or regulation in any applicable jurisdiction similar to Section 956 of the Code), or material adverse regulatory consequences, in each case, as reasonably determined by the Company,

(j) [reserved],

(k) a not-for-profit subsidiary,

(l) an employee benefit trust or similar construct or a trust company,

(m) a special purpose entity,

(n) a Captive Insurance Subsidiary, or

(o) in the reasonable judgment of the Administrative Agent and the Company, a Subsidiary as to which 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, subject to Section 9.11, if a Subsidiary executes the Guaranty as a "Guarantor," then it shall not constitute an "Excluded Subsidiary" (unless released from its

obligations under the Guaranty, as a "Guarantor" in accordance with the terms hereof and thereof); *provided*, *further*, that no Subsidiary of the Company shall be an Excluded Subsidiary if such Subsidiary is a guarantor with respect to (x) any of the Senior Secured Notes Documents or (y) any other Indebtedness for borrowed money of the Company or a Guarantor or a Co-Borrower (in each case, other than any Guarantor or Co-Borrower that will simultaneously cease to be a Restricted Subsidiary or an Excluded Subsidiary), in an aggregate outstanding principal amount in excess of $300,000,000, *provided*, *however*, that, if such other Indebtedness will permit the release of such Subsidiary if such Subsidiary is released from its obligations hereunder, then such Subsidiary shall be released pursuant to this clause (o), notwithstanding the foregoing proviso.

Notwithstanding the foregoing, no Borrower shall be deemed to 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) 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 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 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 being treated as a resident or as having a permanent establishment for tax purposes in, or, in the case of any Lender, having 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 Lender, any U.S. federal withholding Taxes imposed pursuant to a Law in effect on the date on which such Lender acquires an interest in the applicable Commitment or, if such Lender did not fund the applicable Loan pursuant to a prior Commitment, the date on which such Lender acquires the applicable interest in such Loan (in each case, other than any Lender acquiring an interest in a Loan or Commitment pursuant to a request by any Loan Party under Section 3.08) 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 Lender's assignor immediately before such Lender acquired the applicable Commitment or Loan or to such Lender immediately before it changes its Lending Office, (c) Taxes attributable to such Recipient's failure to comply with Section 3.01(h) and (d) any Taxes imposed under FATCA.

"**Executive Order**" means Executive Order No. 13224 of September 23, 2001, entitled Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism (66 Fed. Reg. 49079 (2001)).

"**Existing Loans**" has the meaning specified in Section 2.19(a).

"**Existing Revolving Tranche**" has the meaning specified in Section 2.19(a).

"**Existing Term Loans**" has the meaning specified in Section 2.19(a).

"**Existing Term Tranche**" has the meaning specified in Section 2.19(a).

"**Existing Tranche**" has the meaning specified in Section 2.19(a).

"**Extendable Bridge Loans/Interim Debt**" means customary "bridge" loans, escrow or similar arrangements which by their terms will be converted into loans or other Indebtedness that have, or extended such that they have, a maturity date later than the Latest Maturity Date of all Term Loan Tranches then in effect.

"**Extended Loans**" has the meaning specified in Section 2.19(a).

"**Extended Loans Agent**" has the meaning specified in Section 2.19(a).

"**Extended Revolving Commitments**" has the meaning specified in Section 2.19(a).

"**Extended Revolving Tranche**" has the meaning specified in Section 2.19(a).

"**Extended Term Loans**" has the meaning specified in Section 2.19(a).

"**Extended Term Tranche**" has the meaning specified in Section 2.19(a).

"**Extended Tranche**" has the meaning specified in Section 2.19(a).

"**Extending Lender**" has the meaning specified in Section 2.19(b).

"**Extension**" has the meaning specified in Section 2.19(b).

"**Extension Amendment**" has the meaning specified in Section 2.19(c).

"**Extension Date**" has the meaning specified in Section 2.19(d).

"**Extension Election**" has the meaning specified in Section 2.19(b).

"**Extension Request**" has the meaning specified in Section 2.19(a).

"**Facility**" or "**Facilities**" means any Term Facility and/or any Revolving Credit Facility (including the Letter of Credit Sublimit), as the context may require.

"**fair market value**" means, with respect to any asset or property, the price which could be negotiated in an arm's-length transaction, for cash, between a willing seller and a willing and able buyer; for purposes of this Agreement, fair market value may be conclusively established by means of a certificate of a Responsible Officer or resolutions of the Board of Directors setting out such fair market value as determined by such Responsible Officer or such Board of Directors in good faith.

"**FATCA**" means Sections 1471 through 1474 of the Code as of the date hereof (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future Treasury Regulations thereunder 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), any intergovernmental agreement, treaty or convention among Governmental Authorities (and any related Laws) implementing the foregoing.

"**Federal Funds Effective Rate**" means, for any day, the rate calculated by the NYFRB based on such day's federal funds transactions by depositary 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 Effective Rate as so determined would be less than the Floor, such rate shall be deemed to be the Floor for the purposes of this Agreement.

"**Federal Reserve Board**" means the Board of Governors of the Federal Reserve System of the United States of America.

"**Financial Covenant**" has the meaning specified in Section 7.08.

"**Financial Covenant Event of Default**" has the meaning specified in Section 8.01(b).

"**First Lien Pari Passu Intercreditor Agreement**" means a First Lien Pari Passu Intercreditor Agreement, substantially in the form of the first lien *pari passu* intercreditor agreement attached as Exhibit G-2, to be executed on the Spin-Off Date, by and between the Administrative Agent, the Collateral Agent, and U.S. Bank Trust Company, National Association, as the initial other representative and the initial other collateral agent.

"**First Lien/Second Lien Intercreditor Agreement**" means a First Lien/Second Lien Intercreditor Agreement, substantially in the form of the first lien/second lien intercreditor agreement attached as Exhibit G-1.

"**First Lien Specified Debt**" means Indebtedness in respect of any Term Facility (including, for the avoidance of doubt, any New Term Facility), any Revolving Credit Facility (including, for the avoidance of doubt, any New Revolving Facility), the Senior Secured Notes, any other loans incurred pursuant to any Loan Document, any Incremental Equivalent Debt, any Ratio Debt, any Permitted Debt Exchange Notes, any Specified Refinancing Debt, any Credit Agreement Refinancing Debt and/or any Refinancing Indebtedness in respect of any of the foregoing, in each case, that is secured by a Lien on the Collateral on a *pari passu* basis with the Initial Term Loans.

"**Fixed Charges**" means, with respect to any Person for any period, the sum of (without duplication):

(1) Consolidated Interest Expense of such Person for such period;

(2) all cash dividends or other distributions paid (excluding items eliminated in consolidation) on any series of Preferred Stock of any Restricted Subsidiary of such Person during such period; and

(3) all cash dividends or other distributions paid (excluding items eliminated in consolidation) on any series of Disqualified Stock of such Person during such period.

"**Floor**" means a rate of interest equal to (x) with respect to any Revolving Credit Borrowing, 0.00% and (y) with respect to any Term Borrowing, 0.50%.

"**Foreign Benefit Event**" means, with respect to any Foreign Plan, (a) the existence of unfunded liabilities in excess of the amount permitted under any applicable Law, whether or not waived by 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 from a Governmental Authority relating to the intention to terminate any such Foreign Plan or to appoint a trustee or similar official to administer any such Foreign Plan, or alleging the insolvency of any such Foreign Plan, (d) the incurrence of any liability by a Loan Party or any of its Subsidiaries under applicable Law on account of the complete or partial termination of such Foreign 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 a Loan Party or any of its Subsidiaries, or the imposition on a Loan Party or any of its Subsidiaries of any fine, excise tax or penalty resulting from any noncompliance with any applicable Law.

"**Foreign Casualty Event**" has the meaning assigned to such term in Section 2.05(b)(viii).

"**Foreign Disposition**" has the meaning assigned to such term in Section 2.05(b)(viii).

"**Foreign Plan**" means any pension benefit plan, fund (including any superannuation fund) or other similar program 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.

"**Fronting Exposure**" means, at any time there is a Defaulting Lender, with respect to an L/C Issuer, such Defaulting Lender's Pro Rata Share of the outstanding L/C Obligations (other than L/C Obligations as to which such Defaulting Lender's participation obligation has been reallocated to other Non-Defaulting Lenders or Cash Collateralized in accordance with the terms hereof).

"**FSHCO**" means any direct or indirect Subsidiary of the Company that owns no material assets (directly or indirectly) other than (i) Equity Interests (including, for this purpose, any debt or other instrument treated as equity for U.S. federal income tax purposes (as determined by the Company)) and (ii) indebtedness, in either case of clauses (i) and (ii), in one or more Subsidiaries that are Non-U.S. Subsidiaries, CFCs and/or one or more other FSHCOs.

"**Fund**" means any Person (other than a Natural Person) that is (or will be) 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 generally accepted accounting principles in the United States of America set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as have been approved by a significant segment of the accounting profession, which are in effect from time to time; *provided* that (a) all terms of an accounting or financial nature used in this Agreement shall be construed, and all computations of amounts and ratios referred to in this Agreement shall be made, without giving effect to any election under Accounting Standards Codification Topic 825—Financial Instruments (if applicable), or any successor thereto or comparable accounting principle (including pursuant to the Accounting Standards Codification), to value any Indebtedness of the Company or any Subsidiary at "fair value," as defined therein and (b) the amount of any Indebtedness under GAAP with respect to Capitalized Lease Obligations shall be determined in accordance with the definition of Capitalized Lease Obligations. At any time after the Closing Date, the Company may elect to apply IFRS accounting principles in lieu of GAAP and, upon any such election,

references herein to GAAP shall thereafter be construed to mean IFRS (except as otherwise provided in this Agreement); *provided* that any such election, once made, shall be irrevocable; *provided*, *further*, any calculation or determination in this Agreement that requires the application of GAAP for periods that include fiscal quarters ended prior to the Company's election to apply IFRS shall remain as previously calculated or determined in accordance with GAAP. The Company shall give notice of any such election made in accordance with this definition to the Administrative Agent. For the avoidance of doubt, solely making an election (without any other action) referred to in this definition will not be treated as an incurrence of Indebtedness.

If there occurs a change in IFRS or GAAP, as applicable, and such change would cause a change in the method of calculation of any standards, terms or measures (including all computations of amounts and ratios) used in this Agreement (an "**Accounting Change**"), then the Company may elect that such standards, terms or measures shall be calculated as if such Accounting Change had or had not occurred.

All references to an accounting rule, regulation, standard, principal, term or measure, as applicable, in this Agreement (x) with respect to GAAP shall be deemed to refer to the equivalent rule, regulation, standard, principal, term or measure with respect to IFRS (if applicable) and (y) with respect to IFRS shall be deemed to refer to the equivalent rule, regulation, standard, principal, term or measure with respect to GAAP (if applicable).

"**Governmental Authority**" means any nation or government, any state, province, territory 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).

"**Guarantee**" means, any obligation, contingent or otherwise, of any Person directly or indirectly guaranteeing any Indebtedness of any other Person, including any such obligation, direct or indirect, contingent or otherwise, of such Person:

(i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness of such other Person (whether arising by virtue of partnership arrangements, or by agreements to keep-well, to purchase assets, goods, securities or services, to take-or-pay or to maintain financial statement conditions or otherwise); or

(ii) entered into primarily for purposes of assuring in any other manner the obligee of such Indebtedness of the payment thereof or to protect such obligee against loss in respect thereof (in whole or in part);

provided, *however*, that the term "Guarantee" will not include (x) endorsements for collection or deposit in the ordinary course of business or consistent with past practice and (y) standard contractual indemnities or product warranties provided in the ordinary course of business, and *provided*, *further*, that the amount of any Guarantee shall be deemed to be the lower of (i) an amount equal to the stated or determinable amount of the primary obligation in respect of which such Guarantee is made and (ii) the maximum amount for which such guaranteeing Person may be liable pursuant to the terms of the instrument embodying such Guarantee or, if such Guarantee is not an unconditional guarantee of the entire amount of the primary obligation and such maximum amount is not stated or determinable, the amount of such guaranteeing Person's maximum reasonably anticipated liability in respect thereof as determined by such Person in good faith. The term "Guarantee" used as a verb has a corresponding meaning.

"**Guarantors**" means, collectively:

(i) as of the Spin-Off Date, the Subsidiaries of the Company listed on Schedule 1,

(ii) each other Subsidiary of the Company that executes and delivers a Guaranty or guaranty supplement pursuant to the Guaranty, Section 6.12 or 6.16, in each case of clauses (i) and (ii) unless any such Subsidiary of the Company has ceased to be a Guarantor pursuant to the terms hereof, and

(iii) each Borrower (except as to its own Obligations), including any Co-Borrower (except as to its own Obligations), unless, in the case of any Co-Borrower, such Co-Borrower has ceased to be a Borrower and a Guarantor pursuant to the terms hereof.

For the avoidance of doubt, no Excluded Subsidiary shall be a Guarantor, except as provided in the last sentence of Section 6.12.

"**Guaranty**" means, collectively, the Guaranty, to be dated as of the Spin-Off Date, executed by the Loan Parties party thereto, together with each other guaranty and guaranty supplement delivered pursuant to Section 6.12, Section 6.14 or Section 6.16.

"**Guaranty Supplement**" has the meaning specified in the Guaranty.

"**Hazardous Materials**" means all explosive or radioactive substances or wastes, contaminants, pollutants and hazardous or toxic substances, materials or wastes, including petroleum or petroleum distillates, asbestos or asbestos-containing materials, toxic mold, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other toxic substances, materials or wastes of any nature regulated pursuant to any Environmental Law.

"**Hedge Bank**" means any Person in its capacity as a party to a Swap Contract that:

(a)

(i) at the time it enters into a Swap Contract, is a Lender or an Agent or an Affiliate of a Lender or an Agent,

(ii) in the case of any Person party to a Swap Contract in effect as of the Closing Date, either is a Lender or an Agent or an Affiliate of a Lender or an Agent as of the Closing Date or becomes a Lender or an Agent or an Affiliate of a Lender within 45 days after the Closing Date,

(iii) within 45 days after the time it enters into a Swap Contract, becomes a Lender or an Agent or an Affiliate of a Lender or an Agent, or

(iv) (A) whose long-term senior unsecured debt rating is A/A2 by S&P or Moody's (or their equivalent) or higher or (B) that has been approved in writing by the Administrative Agent, and

(b)

(i) in the case of any Person described in the foregoing clause (a)(iii) or (iv), has been designated by the Company in writing to the Administrative Agent as a "Hedge Bank" for purposes of this Agreement and the other Loan Documents, and

(ii) to the extent not the Administrative Agent, the Collateral Agent or a Lender hereunder, shall have appointed the Administrative Agent and the Collateral Agent as its agents under the applicable Loan Documents and agreed to be bound by the provisions of Article IX as if it were a Lender pursuant to a writing substantially in the form of Exhibit N or otherwise reasonably satisfactory to the Company and the Administrative Agent.

"**Honor Date**" has the meaning specified in Section 2.03(d)(i).

"**IFRS**" means the international financial reporting standards as issued by the International Accounting Standards Board and adopted by the European Union as in effect from time to time.

"**Immaterial Subsidiary**" means, at any date of determination, each Restricted Subsidiary of the Company that (i) has not guaranteed any other Indebtedness of the Company and (ii) (A) has Total Assets and revenues of less than 5.0% of Total Assets and revenues of the Company and its Restricted Subsidiaries on a consolidated basis, and (B) together with all other Immaterial Subsidiaries, has Total Assets and revenues of less than 10.0% of Total Assets and revenues of the Company and its Restricted Subsidiaries on a consolidated basis, in each case for clauses (A) and (B), measured at the end of the most recent fiscal period for which consolidated financial statements are available (which may, at the election of the Company, be internal financial statements) on a *pro forma* basis giving effect to any acquisitions or dispositions of companies, division or lines of business since such balance sheet date or the start of such four quarter period, as applicable, and on or prior to the date of acquisition of such Subsidiary.

"**Immediate Family Members**" means, with respect to any individual, such individual's child, stepchild, grandchild or more remote descendant, parent, stepparent, grandparent, spouse, former spouse, qualified domestic partner, sibling, mother-in-law, father-in-law, son-in-law and daughter-in-law (including adoptive relationships, the estate of such individual and such other individuals above) and any trust, partnership or other bona fide estate-planning vehicle the only beneficiaries of which are any of the foregoing individuals or any private foundation or fund that is controlled by any of the foregoing individuals or any donor-advised fund of which any such individual is the donor.

"**Increase Effective Date**" has the meaning specified in Section 2.14(c).

"**Increased Amount**" means, with respect to any Indebtedness, any increase in the amount of such Indebtedness in connection with any accrual of interest, the accretion of accreted value, the amortization of original issue discount, the payment of interest in the form of additional Indebtedness with the same terms, accretion of original issue discount or liquidation preference and increases in the amount of Indebtedness outstanding solely as a result of fluctuations in the exchange rate of currencies or increases in the value of property securing Indebtedness.

"**Incremental Amount**" has the meaning specified in Section 2.14(a).

"**Incremental Arranger**" has the meaning specified in Section 2.14(a).

"**Incremental Debt Lien/Guarantee Parameters**" means with respect to any Credit Agreement Refinancing Debt, Permitted Debt Exchange Notes, New Revolving Facility, New Term Facility, Extended Tranche, Incremental Equivalent Debt, or Specified Refinancing Debt, as applicable,

(a) if such debt is borrowed or issued by (x) any Borrower or any Guarantor, it shall not be Guaranteed by any Person that is not a Loan Party or does not become a Loan Party substantially concurrently with the incurrence of such debt, or (y) any Non-Loan Party Subsidiary, the amount thereof shall not exceed the Non-Loan Party Sublimit as of the date of Incurrence; and

(b) if such debt is secured by a lien on all or any portion of the Collateral, (x) it shall not be secured by any assets other than assets that constitute Collateral, and (y) it shall be secured by a lien on the Collateral on a *pari passu* basis with the Initial Term Loans or secured by a lien on the Collateral on a junior basis to the Initial Term Loans; *provided* that if such debt is secured by a lien on all or any portion of the Collateral, such debt shall be subject to Applicable Intercreditor Arrangements.

"**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 Facilities**" has the meaning specified in Section 2.14(a).

"**Incur**" or "**incur**" means to issue, create, assume, enter into any Guarantee of, incur, extend or otherwise become liable for; *provided*, *however*, that any Indebtedness or Capital Stock of a Person existing at the time such Person becomes a Restricted Subsidiary (whether by merger, amalgamation, consolidation, acquisition or otherwise) will be deemed to be incurred by such Restricted Subsidiary at the time it becomes a Restricted Subsidiary and the terms "incurred" and "incurrence" have meanings correlative to the foregoing and any Indebtedness pursuant to any revolving credit or similar facility shall only be "incurred" at the time any funds are borrowed thereunder.

"**Indebtedness**" means, with respect to any Person on any date of determination (without duplication):

(1) the principal of indebtedness of such Person for borrowed money;

(2) the principal of obligations of such Person evidenced by bonds, debentures, notes or other similar instruments;

(3) all reimbursement obligations of such Person in respect of letters of credit, bankers' acceptances or other similar instruments (the amount of such obligations being equal at any time to the aggregate then undrawn and unexpired amount of such letters of credit or other instruments *plus* the aggregate amount of drawings thereunder that have not been reimbursed) (except to the extent such reimbursement obligations relate to trade payables and such obligations are satisfied within 30 days of incurrence);

(4) the principal component of all obligations of such Person to pay the deferred and unpaid purchase price of property (except trade payables or similar obligations, including accrued expenses owed, to a trade creditor), which purchase price is due more than one year after the date of placing such property in service or taking final delivery and title thereto;

(5) Capitalized Lease Obligations of such Person;

(6) the principal component of all obligations, or liquidation preference, of such Person with respect to any Disqualified Stock or, with respect to any Restricted Subsidiary, any Preferred Stock (but excluding, in each case, any accrued dividends);

(7) the principal component of all Indebtedness of other Persons secured by a Lien on any asset of 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 at such date of determination (as determined in good faith by the Company) and (b) the amount of such Indebtedness of such other Persons;

(8) Guarantees by such Person of the principal component of Indebtedness of the type referred to in clauses (1), (2), (3), (4), (5) and (9) of other Persons to the extent Guaranteed by such Person; and

(9) to the extent not otherwise included in this definition, net obligations of such Person under Swap Obligations (the amount of any such obligations to be equal at any time to the net payments under such agreement or arrangement giving rise to such obligation that would be payable by such Person at the termination of such agreement or arrangement);

with respect to clauses (1), (2), (3), (4), (5) and (9) above, if and to the extent that any of the foregoing Indebtedness (other than letters of credit and Swap Obligations) would appear as a liability upon a balance sheet (excluding the footnotes thereto) of such Person prepared in accordance with GAAP.

The amount of Indebtedness of any Person at any time in the case of a revolving credit or similar facility shall be the total amount of funds borrowed and then outstanding. The amount of any Indebtedness outstanding as of any date shall be (a) the accreted value thereof in the case of any Indebtedness issued with original issue discount and (b) the principal amount of Indebtedness, or liquidation preference thereof, in the case of any other Indebtedness. Indebtedness shall be calculated without giving effect to the effects of Accounting Standards Codification Topic 815—Derivatives and Hedging and related pronouncements to the extent such effects would otherwise increase or decrease an amount of Indebtedness for any purpose under this Agreement as a result of accounting for any embedded derivatives created by the terms of such Indebtedness.

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 practice, other than Guarantees or other assumptions of Indebtedness;

(ii) obligations in respect of Cash Management Agreements;

(iii) any lease, concession or license of property (or Guarantee thereof) which would be considered an operating lease under GAAP as in effect on the Closing Date, Non-Financing Lease Obligations, Sale and Leaseback Transactions or any prepayments of deposits received from clients or customers in the ordinary course of business or consistent with past practice;

(iv) 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 practice;

(v) in connection with the purchase by the Company or any Restricted Subsidiary of any business, any deferred or prepaid revenue, post-closing payment adjustments to which the seller may become entitled to the extent such payment is determined by a final closing balance sheet or such payment depends on the performance of such business after the closing; *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;

(vi) for the avoidance of doubt, any obligations in respect of workers' compensation claims, early retirement or termination obligations, pension fund obligations or contributions or similar claims, obligations or contributions or social security or wage Taxes;

(vii) obligations under or in respect of Qualified Securitization Financings or Receivables Facilities;

(viii) Indebtedness of any direct or indirect parent of the Company appearing on the balance sheet of the Company solely by reason of push down accounting under GAAP;

(ix) Capital Stock (other than in the case of clause (6) above, Disqualified Stock); or

(x) amounts owed to dissenting stockholders (including in connection with, or as a result of, exercise of dissenters' or appraisal rights and the settlement of any claims or action (whether actual, contingent or potential)), pursuant to or in connection with a consolidation, amalgamation, merger or transfer of assets that complies with Section 7.03.

"**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 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, investment banking firm or consultant to Persons engaged in Similar Businesses of nationally recognized standing; *provided*, *however*, that such firm or appraiser is not an Affiliate of the Company.

"**Information**" has the meaning specified in Section 10.08.

"**Information Memorandum**" means the lender presentation and private supplement thereto dated January 2022.

"**Initial Agreement**" has the meaning specified in Section 7.06(b)(17).

"**Initial Revolving Credit Commitments**" means, as to any Revolving Credit Lender, its obligation to (a) make Revolving Credit Loans to the Company and (b) purchase participations in L/C Obligations, in an aggregate principal amount and/or Dollar Amount not to exceed the amount set forth under the heading "Initial Revolving Credit Commitment" opposite such Lender's name on Schedule 2.01, as such amount may be adjusted from time to time in accordance with the terms of this Agreement. The original Dollar Amount of the Initial Revolving Credit Commitments shall be $500,000,000 on the Closing Date.

"**Initial Revolving Tranche**" means the Revolving Tranche established pursuant to Section 2.01(b) on the Closing Date.

"**Initial Term Borrowing**" means a borrowing consisting of simultaneous Initial Term Loans made by each of the Initial Term Lenders pursuant to Section 2.01(a), in each case, on the Closing Date.

"**Initial Term Commitment**" means, as to each Initial Term Lender, its obligation to make Initial Term Loans to the Borrower pursuant to Section 2.01(a) in an aggregate principal amount not to exceed the amount set forth opposite such Initial 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 $950,000,000.

"**Initial 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 Initial Term Loans at such time.

"**Initial Term Loans**" has the meaning specified in Section 2.01(a).

"**Inside Maturity Basket**" means, an aggregate principal amount of Indebtedness equal to, when taken together with the aggregate outstanding principal amount of all other Indebtedness Incurred in reliance on this definition on or prior to the date of Incurrence of any such Indebtedness, the greater of (a) $375,000,000 and (b) 75.0% of LTM EBITDA.

"**Intellectual Property Security Agreement**" means, individually and collectively, the intellectual property security agreement substantially in the form of Exhibit B to the Security Agreement, to be dated as of 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, Section 6.14 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 License Agreement**" means any cost sharing agreement, commission or royalty agreement, license or sublicense agreement, distribution agreement, services agreement, intellectual property rights transfer agreement, any related agreements or similar agreements, in each case where all parties to such agreement are one or more of the Company or a Restricted Subsidiary.

"**Intercompany Subordination Agreement**" means an intercompany subordination agreement, in substantially the form of Exhibit H hereto, or otherwise in form and substance reasonably satisfactory to the Administrative Agent.

"**Interest Payment Date**" means (a) as to any SOFR Loan or Eurocurrency Rate Loan, the last day of each Interest Period applicable to such Loan and the Maturity Date of the Facility under which such Loan was made; *provided*, *however*, that if any Interest Period for a SOFR Loan or Eurocurrency Rate Loan exceeds three months, the respective dates that fall every three months after the beginning of such Interest Period shall also be Interest Payment Dates; and (b) as to any ABR Loan, the last Business Day of each March, June, September and December, and the Maturity Date of the Facility under which such Loan was made, commencing June 30, 2022.

"**Interest Period**" means, as to any Borrowing, the period commencing on the date of such Loan or Borrowing and ending on the numerically corresponding day in the calendar month that is one, three or six months thereafter (in each case, subject to the availability thereof), as specified in the applicable Committed Loan Notice; *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 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 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, (iii) no Interest Period in respect of a Facility shall extend beyond the Maturity Date of such Facility and (iv) no tenor that has been removed from this definition pursuant to Section 3.04 shall be available for specification in such Committed Loan Notice. For purposes hereof, the date of a Loan or Borrowing initially shall be the date on which such Loan or Borrowing is made and thereafter shall be the effective date of the most recent conversion or continuation of such Loan or Borrowing.

"**Investment**" means, with respect to any Person, all investments by such Person in other Persons (including Affiliates) in the form of advances, loans or other extensions of credit (excluding (i) accounts receivable, trade credit, advances or extensions of credit to customers, suppliers, future, present or former employees, directors, officers, managers, contractors, consultants or advisors (or their respective Controlled Investment Affiliates or Immediate Family Members) of any Person in the ordinary course of business or consistent with past practice, (ii) any debt or extension of credit represented by a bank deposit other than a time deposit, (iii) intercompany advances arising from cash management, tax and accounting operations and (iv) intercompany loans, advances or Indebtedness having a term not exceeding 364 days (exclusive of any roll-over or extensions of terms)) or capital contribution to (by means of any transfer of cash or other property to others or any payment for property or services for the account or use of others), or the incurrence of a Guarantee of any obligation of, or any purchase or acquisition of Capital Stock, Indebtedness or other similar instruments issued by, such other Persons and all other items that are or would be classified as investments on a balance sheet prepared in accordance with GAAP; *provided*, *however*, that endorsements of negotiable instruments and documents in the ordinary course of business or consistent with past practice will not be deemed to be an Investment.

For purposes of Section 7.05 and the definition of "Unrestricted Subsidiary":

(1) "**Investment**" will include the portion (proportionate to the Company's equity interest in such Restricted Subsidiary to be designated as an Unrestricted Subsidiary) of the fair market value of the net assets of such Restricted Subsidiary at the time that such Restricted Subsidiary is designated an Unrestricted Subsidiary; *provided*, *however*, that upon a redesignation of such Subsidiary as a Restricted Subsidiary, the Company will be deemed to continue to have a permanent "Investment" in an Unrestricted Subsidiary in an amount (if positive) equal to (a) the Company's "Investment" in such Subsidiary at the time of such redesignation less (b) the portion (proportionate to the Company's equity interest in such Subsidiary) of the fair market value of the net assets (as determined by the Company) of such Subsidiary at the time that such Subsidiary is so re-designated a Restricted Subsidiary;

(2) any property transferred to or from an Unrestricted Subsidiary will be valued at its fair market value at the time of such transfer, in each case as determined by the Company; and

(3) if the Company or any Restricted Subsidiary issues, sells or otherwise disposes of Capital Stock of a Person that is a Restricted Subsidiary such that, after giving effect thereto, such Person is no longer a Restricted Subsidiary, any investment by the Company or any Restricted Subsidiary in such Person remaining after giving effect thereto shall not be deemed to be an Investment at such time.

The amount of any Investment outstanding at any time shall be the original cost of such Investment, reduced by any dividend, distribution, interest payment, return of capital, repayment or other amount received in cash and Cash Equivalents by the Company or a Restricted Subsidiary in respect of such Investment to the extent such amounts do not increase any other baskets under this Agreement.

"**Investment Grade Securities**" means:

(1) securities issued or directly and fully Guaranteed or insured by the United States government or any agency or instrumentality thereof (other than Cash Equivalents);

(2) securities issued or directly and fully guaranteed or insured by the Canadian, United Kingdom or Japanese governments, a member state of the European Union, or any agency or instrumentality thereof (other than Cash Equivalents);

(3) debt securities or debt instruments with a rating of "BBB-" or higher from S&P or "Baa3" or higher by Moody's or the equivalent of such rating by such rating organization or, if no rating of Moody's or S&P then exists, the equivalent of such rating by any other Nationally Recognized Statistical Ratings Organization, but excluding any debt securities or instruments constituting loans or advances among the Company and its Subsidiaries;

(4) investments in any fund that invests exclusively in investments of the type described in clauses (1), (2) and (3) above which fund may also hold cash and Cash Equivalents pending investment or distribution; and

(5) corresponding instruments in countries other than the United States customarily utilized for high quality investments.

"**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" International Chamber of Commerce publication number 590 (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 the applicable 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 collaboration arrangements, profit sharing arrangements or other contractual arrangements.

"**Judgment Currency**" has the meaning specified in Section 10.23.

"**Junior Lien Specified Debt**" means Indebtedness in respect of any Term Facility (including, for the avoidance of doubt, any New Term Facility), any Revolving Credit Facility (including, for the avoidance of doubt, any New Revolving Facility), any other loans incurred pursuant to any Loan Document, any Incremental Equivalent Debt, any Ratio Debt, any Permitted Debt Exchange Notes, any Specified Refinancing Debt, any Credit Agreement Refinancing Debt and/or any Refinancing Indebtedness in respect of any of the foregoing, in each case, that is secured by a Lien on the Collateral on a junior basis to the Initial Term Loans.

"**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, provincial 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.

"**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 applicable Borrower 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 reinstatement or increase of the amount thereof.

"**L/C Issuer**" means (a) each of the L/C Issuers identified on Schedule 1.01(f) in their capacity 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 letters of credit hereunder other than standby letters of credit in Dollars), and (b) any other Lender reasonably acceptable to the Company 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, and in each case, applicable Affiliates; *provided* that any Revolving Credit Lender may provide bank guarantees, bond agreements and other such arrangements under this Agreement, in each case, as agreed in such Revolving Credit Lender's sole discretion.

"**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 (a) any amount may still be drawn thereunder by reason of the operation of any rule of law or standard practices to which any Letter of Credit is subject (such as Rules 3.13 and 3.14 of the ISP and Article 29 of the UCP) or any express term of the Letter of Credit, such Letter of Credit shall be deemed to be "outstanding" in the amount so remaining available to be drawn, or (b) any drawing was made thereunder on or before the last day permitted thereunder and such drawing has not been honored or refused by the applicable L/C Issuer, such Letter of Credit shall be deemed to be "outstanding" in the amount of such drawing.

"**LCT Election**" has the meaning specified in Section 1.02(i).

"**LCT Public Offer**" has the meaning specified in Section 1.02(i).

"**LCT Test Date**" has the meaning specified in Section 1.02(i).

"**Lender**" has the meaning specified in the preamble to this Agreement and, as the context requires, includes each L/C Issuer.

"**Lending Office**" means, as to any Lender, the office or offices or branch of such Lender or any of its Affiliates described as such in such Lender's Administrative Questionnaire, or such other office or offices or as a Lender or any of its Affiliates may from time to time notify the Company and the Administrative Agent.

"**Letter of Credit**" means any letter of credit issued, extended or amended hereunder. A Letter of Credit may be a commercial letter of credit or a standby letter of credit.

"**Letter of Credit Application**" means an application and agreement for the issuance or amendment of a Letter of Credit in the form from time to time in use by the applicable L/C Issuer, together with a request for L/C Credit Extension, substantially in the form of Exhibit A-2 hereto.

"**Letter of Credit Sublimit**" means an amount equal to the Dollar equivalent of $60,500,000. The Letter of Credit Sublimit is part of, and not in addition to, the Revolving Credit Facility.

"**Letter of Credit Sublimit Expiration Date**" means, subject to Section 2.03(a)(ii)(C), the day that is five Business Days prior to the scheduled Maturity Date then in effect for the Revolving Credit Facility or the date of termination of the applicable Revolving Credit Commitments (or, if such day is not a Business Day, the immediately preceding Business Day).

"**Lien**" means any mortgage, pledge, security interest, encumbrance, lien, hypothecation or charge of any kind (including any conditional sale or other title retention agreement or lease in the nature thereof); *provided* that in no event shall Non-Financing Lease Obligations be deemed to constitute a Lien.

"**Limited Condition Transaction**" means (1) any Investment or acquisition (whether by merger, amalgamation, consolidation or other business combination or the acquisition of Capital Stock or otherwise and which may include, for the avoidance of doubt, a transaction that may constitute a Change of Control) in or of any assets, business or Person, (2) any redemption, repurchase, defeasance, satisfaction and discharge or repayment of Indebtedness, Disqualified Stock or Preferred Stock requiring irrevocable notice in advance of such redemption, repurchase, defeasance, satisfaction and discharge or repayment, (3) any Restricted Payment requiring irrevocable notice in advance thereof, (4) any asset sale or a disposition and (5) a "Change of Control."

"**LLC Conversion**" means the conversion of any Restricted Subsidiary of the Company that is a U.S. Subsidiary from a corporation into a limited liability company.

"**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 Law.

"**Loan**" means an extension of credit by a Lender to a Borrower 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, (i) this Agreement, (ii) the Notes, (iii) the Guaranty, (iv) the Collateral Documents, (v) the Intercompany Subordination Agreement, (vi) the First Lien Pari Passu Intercreditor Agreement, (vii) any other intercreditor agreement required to be entered into pursuant to the terms of this Agreement, (viii) any agreement creating or perfecting rights in Cash Collateral pursuant to the provisions of Section 2.16 of this Agreement, (ix) any Refinancing Amendment and (x) any Co-Borrower Joinder Agreement.

"**Loan Parties**" means, collectively, the Company, each other Borrower and each Guarantor.

"**LP Division**" means the statutory division of any limited partnership into two or more limited partnerships pursuant to Section 17-220 of the Delaware Limited Partnership Act or a comparable provision of any other Law.

"**LTM EBITDA**" means Consolidated EBITDA of the Company measured for the period of the most recent four consecutive fiscal quarters ending prior to the date of such determination for which consolidated financial statements are available (which may, at the election of the Company, be internal financial statements), in each case with such pro forma adjustments as are consistent with the pro forma adjustments set forth in Section 1.10.

"**Majority Lenders**" of any Tranche or class of Loans, as applicable, means those Non-Defaulting Lenders of such Tranche or class which would constitute the Required Lenders under, and as defined in, this Agreement if all outstanding Obligations of the other Tranches or classes under this Agreement were repaid in full and all Commitments with respect thereto were terminated.

"**Management Advances**" means loans or advances made to, or Guarantees with respect to loans or advances made to, future, present or former employees, directors, officers, managers, contractors, consultants or advisors (or their respective Controlled Investment Affiliates or Immediate Family Members) of any direct or indirect parent of the Company, the Company or any Restricted Subsidiary:

(1) (a) in respect of travel, entertainment, relocation or moving related expenses, payroll advances and other analogous or similar expenses or payroll expenses, in each case incurred in the ordinary course of business or consistent with past practice or (b) for purposes of funding any such person's purchase of Capital Stock (or similar obligations) of the Company or its Subsidiaries or any direct or indirect parent of the Company with (in the case of this clause (1)(b)) the approval of the Board of Directors of the Company;

(2) in respect of relocation or moving related expenses, payroll advances and other analogous or similar expenses or payroll expenses, in each case incurred in connection with any closing or consolidation of any facility or office; or

(3) not exceeding the greater of (i) $25,000,000 and (ii) 5.0% of LTM EBITDA in the aggregate outstanding at the time of incurrence.

"**Margin Stock**" has the meaning assigned to such term in Regulation U of the FRB as from time to time in effect.

"**Material Adverse Effect**" means (i) a material adverse effect on the business, assets, property, liabilities (actual or contingent), financial condition or results of operations of the Restricted Group, taken as a whole, (ii) a material adverse effect on the legal validity or legal enforceability of the rights or remedies of the Agents or the Lenders under the Loan Documents (taken as a whole) or (iii) a material adverse effect on the ability of the Loan Parties (taken as a whole) to perform their payment obligations under the Loan Documents (taken as a whole).

"**Material Indebtedness**" has the meaning specified in Section 8.01(e).

"**Material Intellectual Property**" shall mean intellectual property that is material to the business of the Company and its Restricted Subsidiaries, taken as a whole, as determined by the Company in good faith.

"**Material Subsidiary**" means any Restricted Subsidiary of the Company constituting, or group of Restricted Subsidiaries of the Company in the aggregate constituting (as if such Restricted Subsidiaries constituted a single Subsidiary), a "significant subsidiary" in accordance with Rule 1-02 under Regulation S-X.

"**Maturity Date**" means: (a) with respect to the Revolving Credit Facility, the earlier of (i) the fifth anniversary of the Closing Date and (ii) the date of termination in whole of the Revolving Credit Commitments pursuant to Section 2.06(a) or 8.02; and (b) with respect to the Initial Term Loans, the earliest of (i) the seventh anniversary of the Closing Date, (ii) the date of termination in whole of the Initial Term Commitments and (iii) the date that the Initial Term Loans are declared due and payable pursuant to Section 8.02; *provided* that the reference to Maturity Date with respect to (i) Term Loans and Revolving Credit Commitments that are the subject of Extension pursuant to Section 2.19 and (ii) Term Loans and Revolving Credit Commitments that are incurred pursuant to Section 2.14 or 2.18 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 Leverage Requirement**" means, with respect to any request made in reliance on this definition 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 and with respect to any Incurrence of Ratio Debt the requirement that, on a pro forma basis in a manner consistent with Section 1.10, after giving effect to the incurrence of any such increase, such new Facility, such Incremental Equivalent Debt, such Ratio Debt (and, in each case, after giving effect to any acquisition or other transaction referred to in Section 1.10 consummated concurrently therewith and all other appropriate pro forma adjustment events and calculated as if any increase in any Revolving Tranche or any New Revolving Facility were fully drawn on the effective date thereof but without netting any portion of the cash proceeds of such Indebtedness then being incurred and without giving effect to any interest expense attributable thereto):

(a) for any such Indebtedness that is secured by a Lien on the Collateral on a *pari passu* basis with the Initial Term Loans, the Consolidated First Lien Net Leverage Ratio on a pro forma basis does not exceed, at the Company's option, (i) 3.10 to 1.00 or (ii) in the case of Acquisition Indebtedness, the Consolidated First Lien Net Leverage Ratio immediately prior to the incurrence of such Indebtedness;

(b) for any such Indebtedness that is secured by a Lien on the Collateral on a junior basis to the Initial Term Loans, the Consolidated Senior Secured Net Leverage Ratio on a pro forma basis does not exceed, at the Company's option, (i) 3.10 to 1.00 or (ii) in the case of Acquisition Indebtedness, the Consolidated Senior Secured Net Leverage Ratio immediately prior to the incurrence of such Indebtedness; or

(c) for any such Indebtedness that is secured by a Lien on assets not constituting Collateral or that is unsecured, at the Company's option, either (i) (x) the Consolidated Total Net Leverage Ratio on a pro forma basis does not exceed 5.25 to 1.00 or (y) in the case of Acquisition Indebtedness, the Consolidated Total Net Leverage Ratio on a pro forma basis does not exceed the Consolidated Total Net Leverage Ratio immediately prior to the incurrence of such Indebtedness, or (ii) (x) the Consolidated Interest Coverage Ratio on a pro forma basis is not less than 2.00 to 1.00 or (y) in the case of Acquisition Indebtedness, the Consolidated Interest Coverage Ratio on a pro forma basis is not less than the Consolidated Interest Coverage Ratio immediately prior to the incurrence of such Indebtedness.

"**Maximum Rate**" has the meaning specified in Section 10.10.

"**MFN Provision**" has the meaning specified in Section 2.14(f).

"**Minimum Extension Condition**" has the meaning specified in Section 2.19(g).

"**Minimum Tender Condition**" has the meaning specified in Section 2.20(b).

"**Moody's**" means Moody's Investors Service, Inc. or any successor to the rating agency business thereof.

"**MS**" has the meaning specified in the preamble to this Agreement.

"**Multiemployer Plan**" means a "multiemployer plan" as defined in Section 4001(a)(3) of ERISA, to which any Loan Party or any ERISA Affiliate makes or is obligated to make contributions or has any liability or obligation, whether fixed or contingent.

"**Natural Person**" means (a) any natural person or (b) a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of a natural person.

"**Net Cash Proceeds**" means:

(a) with respect to any Asset Disposition or any Casualty Event (other than an Excluded Casualty Event), the excess, if any, of cash proceeds received (including any cash proceeds received from the sale or other disposition of any Designated Non-Cash Consideration received in any Asset Disposition, but only as and when received, but excluding any other consideration received in the form of assumption by the acquiring Person of Indebtedness or other obligations relating to the properties or assets that are the subject of such Asset Disposition, or received in any other non-cash form), in each case net of:

(1) all legal, accounting, consulting, investment banking, survey costs, title and recording expenses, title insurance premiums, payments made in order to obtain a necessary consent or required by applicable law, brokerage and sales commissions, relocation expenses, commissions, premiums (including tender premiums), defeasance costs, underwriting discounts, fees, costs and expenses (including original issue discount, upfront fees or similar fees) in connection with such transaction;

(2) all Taxes paid, reasonably estimated to be payable, Tax reserves set aside or payable or accrued as a liability under GAAP (including, for the avoidance of doubt, any income, withholding and other Taxes payable as a result of the distribution or deemed distribution of such proceeds to the Company or any of its Subsidiaries, transfer Taxes, deed or mortgage recording Taxes and Taxes that would be payable in connection with any repatriation of such proceeds), as a consequence of such transaction, including distributions and payments for Permitted Tax Amounts made as a result of or in connection with such transaction or any transactions occurring or deemed to occur to effectuate a payment under this Agreement;

(3) all payments made on any Indebtedness which is (x) secured by any assets subject to such transaction, in accordance with the terms of any Lien upon such assets, (y) is owed by a non-Guarantor or (z) which is required by applicable law be repaid out of the proceeds from such transaction;

(4) all distributions and other payments required to be made to non-controlling interest or minority interest holders (other than any direct or indirect parent of the Company, the Company or any of its Subsidiaries) in Subsidiaries or joint ventures as a result of such transaction;

(5) all costs associated with unwinding any related Swap Obligations in connection with such transaction;

(6) the deduction of appropriate amounts required to be provided by the seller as a reserve, in accordance with GAAP, against any liabilities associated with the assets disposed of in such transaction and retained by the Company or any Restricted Subsidiary after such transaction, including pension and other post-employment benefit liabilities and liabilities related to environmental matters or against any indemnification obligations associated with such transaction;

(7) any portion of the purchase price from such transaction placed in escrow, whether for the satisfaction of any indemnification obligations in respect of such transaction, as a reserve for adjustments to the purchase price associated with any such transaction or otherwise in connection with such transaction;

(8) the amount of any liabilities (other than Indebtedness in respect of this Agreement and the Senior Secured Notes) directly associated with such asset being sold and retained by the Company or any of its Restricted Subsidiaries; and

(9) the amount of any Restricted Payment made with the proceeds of any such transaction pursuant to Section 7.05(b)(12)(b).

(b) with respect to the incurrence or issuance of any Indebtedness by any Restricted Group Member, 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 paid, reasonably estimated to be payable, Tax reserves set aside or payable or accrued as a liability under GAAP (including, for the avoidance of doubt, any income, withholding and other Taxes payable as a result of the distribution of such proceeds to any Restricted Group Member and including distributions and payments for Permitted Tax Amounts made as a result of or in connection with the issuance of such Indebtedness) and other out-of-pocket expenses and other customary expenses, incurred by any Restricted Group Member 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; and

(c) with respect to any issuance of Capital Stock by any Person, the excess, if any, of (A) the sum of the cash received in connection with such issuance over (B) the investment banking fees, underwriting discounts and commissions, premiums, expenses and fees related thereto and other out-of-pocket expenses and other customary expenses, incurred by such Person in connection with such issuance; *provided* that, in the case of any issuance of Capital Stock by any direct or indirect parent of the Company, the amount thereof shall be limited to the amount of cash from such issuance of Capital Stock contributed to the capital of the Company.

"**Net Short Lender**" has the meaning specified in Section 10.01.

"**New Contracts**" has the meaning specified in clause (1)(v) of the definition of "Consolidated EBITDA."

"**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 2.19(e).

"**Non-Financing Lease Obligation**" means a lease obligation that is not required to be accounted for as a financing or capital lease in accordance with GAAP; *provided* that all obligations of the Company and its Restricted Subsidiaries that are or would be characterized as an operating lease as determined in accordance with GAAP as in effect on January 1, 2015 (whether or not such operating lease was in effect on such date) shall continue to be accounted for as an operating lease (and not as a Capitalized Lease Obligation) for purposes of this Agreement regardless of any change in GAAP following January 1, 2015 (that would otherwise require such obligation to be recharacterized as a Capitalized Lease Obligation). For the avoidance of doubt, a straight-line or operating lease shall be considered a Non-Financing Lease Obligation.

"**Non-Loan Party Sublimit**" means an aggregate principal amount equal to, when taken together with the aggregate outstanding principal amount of all other Indebtedness Incurred in reliance on this definition, the greater of (a) $150,000,000 and (b) 30.0% of LTM EBITDA.

"**Non-Loan Party Subsidiary**" means any Restricted Subsidiary of the Company that is not a Borrower or a Guarantor.

"**Non-U.S. Lender**" means a lender that is not a U.S. Person.

"**Non-U.S. Subsidiary**" means any direct or indirect Subsidiary of the Company that is not a U.S. Subsidiary.

"**Note**" means a Term Note or a Revolving Credit Note, as the context may require.

"**NPL**" means the National Priorities List under CERCLA.

"**NYFRB**" means the Federal Reserve Bank of New York.

"**NYFRB Rate**" means, for any day, the greater of (a) the Federal Funds Effective 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.

"**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 arising under any Loan Document or otherwise with respect to any Loan, Letter of Credit, and obligations of any Loan Party or any Restricted Subsidiary arising under any 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 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 or any Restricted Subsidiary 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 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 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 solely 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 Letter of Credit, or sold or assigned an interest in any Loan, Loan Document or Letter of Credit).

"**Other LC**" has the meaning specified in Section 2.03(c)(v).

"**Other Specified Debt**" means Indebtedness in respect of any Term Facility (including, for the avoidance of doubt, any New Term Facility), any Revolving Credit Facility (including, for the avoidance of doubt, any New Revolving Facility), any other loans incurred pursuant to any Loan Document, any Incremental Equivalent Debt, any Ratio Debt, any Permitted Debt Exchange Notes, any Specified Refinancing Debt, any Credit Agreement Refinancing Debt, any Refinancing Indebtedness in respect of any of the foregoing, in each case, that is secured by a Lien on assets not constituting Collateral or unsecured.

"**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 Other Connection Taxes that are imposed with respect to an assignment (other than an assignment made pursuant to Section 3.08).

"**Outstanding Amount**" means: (a) with respect to the Term Loans, Revolving Credit Loans, Specified Refinancing Term Loans and Specified Refinancing Revolving Loans on any date, the aggregate outstanding principal Dollar 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), Specified Refinancing Term Loans and Specified Refinancing Revolving Loans, as applicable, occurring on such date; and (b) with respect to any L/C Obligations on any date, the Dollar Amount of such L/C Obligations on such date after giving effect to any L/C Credit Extension occurring on such date and any other changes in the aggregate Dollar Amount of the L/C Obligations 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) or any reductions in the maximum Dollar 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.

"**Parent Entity**" means any direct or indirect parent of the Company which holds directly or indirectly 100.0% of the equity interests of the Company and which does not hold Capital Stock in any other Person (except for any other Parent Entity).

"**Parent Entity Expenses**" means:

(1) fees, costs and expenses (including all legal, accounting and other professional fees, costs and expenses) incurred or paid by any direct or indirect parent of the Company in connection with reporting obligations under or otherwise incurred or paid in connection with compliance with applicable laws, rules or regulations of any governmental, regulatory or self-regulatory body or stock exchange, this Agreement or any other agreement or instrument relating to the Loans, the Guarantees or any other Indebtedness of the Company or any Restricted Subsidiary, including in respect of any reports filed or delivered with respect to the Securities Act, Exchange Act or the respective rules and regulations promulgated thereunder;

(2) customary salary, bonus, severance, indemnity, insurance (including premiums therefor) and other benefits payable to any employee, director, officer, manager, contractor, consultant or advisor of any direct or indirect parent of the Company or other Persons under its articles, charter, by-laws, partnership agreement or other organizational documents or pursuant to written agreements with any such Person to the extent relating to the Company and its Subsidiaries;

(3) (x) general corporate operating and overhead fees, costs and expenses, (including all legal, accounting and other professional fees, costs and expenses, and director and officer insurance (including premiums therefor)) and, following the first public offering of the Capital Stock of any direct or indirect parent of the Company, listing fees and other costs and expenses attributable to being a publicly traded company of any direct or indirect parent of the Company and (y) other operational expenses of any direct or indirect parent of the Company related to the ownership or operation of the business of the Company or any of the Restricted Subsidiaries;

(4) expenses incurred by any direct or indirect parent of the Company in connection with (i) any offering, sale, conversion or exchange of Capital Stock or Indebtedness (whether or not successful) and (ii) any related compensation paid to employees, directors, officers, managers, contractors, consultants or advisors (or their respective Controlled Investment Affiliates or Immediate Family Members) of such direct or indirect parent;

(5) amounts payable pursuant to any management services or similar agreements or the management services provisions in an investor rights agreement or other equityholders' agreement (including any amendment thereto or replacement thereof so long as any such amendment or replacement is not materially disadvantageous in the reasonable determination of the Company to the Lenders when taken as a whole, as compared to the management services or similar agreements as in effect immediately prior to such amendment or replacement), solely to the extent such amounts are not paid directly by the Company or its Subsidiaries; and

(6) amounts to finance Investments that would otherwise be permitted to be made pursuant to Section 7.05 if made by the Company or a Restricted Subsidiary; *provided*, that (A) such Restricted Payment shall be made substantially concurrently with the closing of such Investment, (B) such direct or indirect parent shall, immediately following the closing thereof, cause (1) all property acquired (whether assets or Capital Stock) to be contributed to the capital of the Company or one of its Restricted Subsidiaries or (2) the merger, consolidation or amalgamation of the Person formed or acquired by or merged or consolidated with the Company or one of its Restricted Subsidiaries (to the extent not prohibited by Section 7.03) in order to consummate such Investment, (C) such direct or indirect parent and its Affiliates (other than the Company or a Restricted Subsidiary) receives no consideration or other payment in connection with such transaction except to the extent the Company or a Restricted Subsidiary could have given such consideration or made such payment in compliance with this Agreement and such consideration or other payment is included as a Restricted Payment under this Agreement, (D) any property received by the Company shall not increase amounts available for Restricted Payments pursuant to clause (b) of Section 7.05(a) and (E) such Investment shall be deemed to be made by the Company or such Restricted Subsidiary pursuant to a provision of Section 7.05 or pursuant to the definition of "Permitted Investment."

"**Parent Holding Company**" means any direct or indirect parent entity of the Company which holds directly or indirectly 100.0% of the Equity Interests of the Company and which does not hold Capital Stock in any other Person (except for any other Parent Holding Company).

"**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 each state as described in any EMU Legislation.

"**PATRIOT Act**" has the meaning specified in Section 10.22.

"**Payment Block**" means any of the circumstances described in Section 2.05(b)(viii) and (ix).

"**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 as set forth in Section 412 and 430 of the Code and Sections 302 and 303 of ERISA.

"**Perfection Certificate**" shall mean the Perfection Certificate, dated as of the Spin-Off Date, executed and delivered by the Loan Parties and each other Perfection Certificate or any supplement thereto delivered by any of the Loan Parties pursuant to the terms hereof.

"**Perfection Exceptions**" means that no Loan Party shall be required to:

(i) enter into control agreements with respect to, or otherwise perfect any security interest by "control" (or similar arrangements) over, commodities accounts, securities accounts, deposit accounts, futures accounts, other bank accounts, cash and cash equivalents and accounts related to the clearing, payment processing and similar operations of the Restricted Group,

(ii) perfect the security interest in the following other than by the filing of a UCC financing statement: (1) letter-of-credit rights (as defined in the UCC), (2) commercial tort claims (as defined in the UCC), (3) Fixtures (as defined in the UCC), except to the extent that the same are Equipment (as defined in the UCC) and (4) Assigned Agreements (as defined in the Security Agreement),

(iii) send notices to account debtors or other contractual third-parties unless an Event of Default has occurred,

(iv) enter into, make or obtain any (x) security documents to be governed by the law of any jurisdiction outside of the United States or (y) other non-U.S. law filings or non-U.S. consents or corporate or organizational action in respect of security, including with respect to any share pledges and any intellectual property registered in any non-U.S. jurisdiction; *provided*, *however*, that the foregoing clause (iv) shall not affect the requirements to deliver certificates and related stock powers in respect of Equity Interest of Non-U.S. Subsidiaries constituting Collateral that would otherwise be required to be delivered pursuant to the Collateral Documents,

(v) deliver landlord waivers, estoppels or collateral access letters, or

(vi) enter into any source code escrow arrangement or be obligated to register intellectual property.

"**Periodic Term SOFR Determination Day**" has the meaning specified in the definition of "Term SOFR".

"**Permitted Asset Swap**" means the concurrent purchase and sale or exchange of assets used or useful in a Similar Business or a combination of such assets and cash or Cash Equivalents between the Company or any of its Restricted Subsidiaries and another Person; *provided* that any cash or Cash Equivalents received in excess of the value of any cash or Cash Equivalents sold or exchanged must be applied in accordance with Section 7.04.

"**Permitted Call Spread Swap Agreements**" shall mean (a) a Swap Contract pursuant to which a Person acquires a call or a capped call option requiring the counterparty thereto to deliver to such Person shares of common stock of Person (or other Equity Interests, securities, property or assets following a merger event or other event or circumstance resulting in the common stock of such Person generally being converted into, or exchanged for, other Equity Interests, securities, property or assets), the cash value thereof or a combination thereof from time to time upon exercise of such option and (b) if entered into by such Person in connection with any Swap Contract described in clause (a) above, a Swap Contract pursuant to which such Person issues to the counterparty thereto warrants or other rights to acquire common stock of such Person (or other Equity Interests, securities, property or assets following a merger event or other event or circumstance resulting in the common stock of such Person generally being converted into, or exchanged for, other Equity Interests, securities, property or assets), whether such warrant or other right is settled in shares (or such other Equity Interests, securities, property or assets), cash or a combination thereof, in each case entered into by such Person in connection with the issuance of Permitted Convertible Notes; *provided* that the terms, conditions and covenants of each such Swap Contract shall be customary or more favorable to than customary for Swap Contracts of such type (as determined by the Company in good faith).

"**Permitted Convertible Notes**" shall mean any notes issued by the Company or any direct or indirect parent of the Company that are convertible into common stock of the Company or any direct or indirect parent of the Company (or other Equity Interests, securities, property or assets following a merger event or other event or circumstance resulting in the common stock of the Company or any direct or indirect parent of the Company generally being converted into, or exchanged for, other Equity Interests, securities, property or assets), cash (the amount of such cash being determined by reference to the price of such common stock or such other Equity Interests, securities, property or assets), or any combination of any of the foregoing, and cash in lieu of fractional shares of common stock; *provided* that the issuance of such notes is permitted under Section 7.01.

"**Permitted Debt**" has the meaning specified in Section 7.01(b).

"**Permitted Debt Exchange**" has the meaning specified in Section 2.20(a).

"**Permitted Debt Exchange Notes**" means Indebtedness in the form of unsecured, first lien, second lien or other junior lien notes; *provided* that such Indebtedness:

(i) 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 Indebtedness incurred pursuant to the Inside Maturity Basket which may have a maturity date earlier than the Latest Maturity Date for the then outstanding Initial Term Loans, (y) special mandatory redemptions in connection with customary escrow arrangements and customary acceleration rights after an event of default or (z) AHYDO Catch-up Payments), in each case prior to the Latest Maturity Date for the applicable then outstanding Initial Term Loans at the time such Indebtedness is incurred, and

(ii) shall comply with the Incremental Debt Lien/Guarantee Parameters.

"**Permitted Debt Exchange Offer**" has the meaning specified in Section 2.20(a).

"**Permitted Intercompany Activities**" means any transactions (A) between or among the Company and its Restricted Subsidiaries that are entered into in the ordinary course of business or consistent with past practice of the Company and its Restricted Subsidiaries and, in the reasonable determination of the Company are necessary or advisable in connection with the ownership or operation of the business of the Company and its Restricted Subsidiaries, including (i) payroll, cash management, purchasing, insurance and hedging arrangements; (ii) management, technology and licensing arrangements; and (iii) customary loyalty and rewards programs; and (B) between or among the Company, its Restricted Subsidiaries and any Captive Insurance Subsidiary.

"**Permitted Investments**" means (in each case, by the Company or any of the Restricted Subsidiaries):

(1) Investments in (a) a Restricted Subsidiary (including the Capital Stock of, or guarantees of obligations of, a Restricted Subsidiary) or the Company or (b) a Person (including the Capital Stock of any such Person) that will, upon the making of such Investment, become a Restricted Subsidiary;

(2) Investments in another Person if such Person is engaged, directly or through entities that will be Restricted Subsidiaries, in any Similar Business and as a result of such Investment such other Person, in one transaction or a series of transactions, is merged, amalgamated, consolidated or otherwise combined with or into, or transfers or conveys all or substantially all its assets (or such division, business unit, product line or business) to, or is liquidated into, the Company or a Restricted Subsidiary, and any Investment held by such Person; *provided* that such Investment was not acquired by such Person in contemplation of such acquisition, merger, amalgamation, consolidation, combination, transfer or conveyance;

(3) Investments in cash, Cash Equivalents or Investment Grade Securities;

(4) Investments in receivables owing to the Company or any Restricted Subsidiary created or acquired in the ordinary course of business or consistent with past practice;

(5) Investments in payroll, travel, entertainment, relocation, moving related and similar advances that are made in the ordinary course of business or consistent with past practice;

(6) Management Advances;

(7) Investments (including debt obligations and equity interests) (a) received in settlement, compromise or resolution of debts created in the ordinary course of business or consistent with past practice, (b) in exchange for any other Investment or accounts receivable, endorsements for collection or deposit held by the Company or any such Restricted Subsidiary, (c) as a result of foreclosure, perfection or enforcement of any Lien, (d) in satisfaction of judgments or (e) pursuant to any plan of reorganization or similar arrangement including upon the bankruptcy or insolvency of a debtor or litigation, arbitration or other disputes or otherwise with respect to any secured Investment or other transfer of title with respect to any secured Investment in default;

(8) Investments made as a result of the receipt of promissory notes or other non-cash consideration (including earn-outs) from a sale or other disposition of property or assets, including an Asset Disposition;

(9) Investments (a) existing or pursuant to binding commitments, agreements or arrangements in effect on the Closing Date and any modification, replacement, renewal, reinvestment or extension thereof; *provided* that the amount of any such Investment may not be increased pursuant to this clause (9) except (i) as required by the terms of such Investment or binding commitment as in existence on the Closing Date (including in respect of any unused commitment), *plus* any accrued but unpaid interest (including any accretion of interest, original issue discount or the issuance of pay-in-kind securities) and premium payable by the terms of such Indebtedness thereon and fees and expenses associated therewith as of the Closing Date or (ii) as otherwise permitted under this Agreement and (b) made after the Closing Date in joint ventures of the Company or any of its Restricted Subsidiaries existing on the Closing Date;

(10) Swap Obligations, which transactions or obligations are not prohibited by Section 7.01;

(11) pledges or deposits with respect to leases or utilities provided to third parties in the ordinary course of business or Liens otherwise described in the definition of "Permitted Liens" or made in connection with Liens permitted under Section 7.02;

(12) any Investment to the extent made using Capital Stock of the Company (other than Disqualified Stock) or Capital Stock of any direct or indirect parent of the Company or any Unrestricted Subsidiary as consideration;

(13) any transaction to the extent constituting an Investment that is permitted by and made in accordance with the provisions of Section 6.18(b) (except those described in clauses (1), (4), (8) and (9) thereof);

(14) Investments consisting of (i) purchases or other acquisitions of inventory, supplies, materials, equipment and similar assets or (ii) licenses, sublicenses, cross-licenses, leases, subleases, assignments, contributions or other Investments of intellectual property or other intangibles or services in the ordinary course of business pursuant to any joint development, joint venture or marketing arrangements with other Persons or any Intercompany License Agreement and any other Investments made in connection therewith;

(15) (i) Guarantees of Indebtedness not prohibited by Section 7.01 and (other than with respect to Indebtedness) guarantees, keepwells and similar arrangements in the ordinary course of business or consistent with past practice and (ii) performance guarantees and Contingent Obligations with respect to obligations that are not prohibited by this Agreement;

(16) Investments consisting of earnest money deposits required in connection with a purchase agreement, or letter of intent, or other acquisitions to the extent not otherwise prohibited by this Agreement;

(17) Investments of a Restricted Subsidiary acquired after the Closing Date or of an entity merged or amalgamated into or consolidated with the Company or merged or amalgamated into or consolidated with a Restricted Subsidiary after the Closing Date to the extent that such Investments were not made in contemplation of or in connection with such acquisition, merger, amalgamation or consolidation and were in existence on the date of such acquisition, merger, amalgamation or consolidation;

(18) any Investment in any Subsidiary or any joint venture in the ordinary course of business or consistent with past practice (including any cash management arrangements, cash pooling arrangements, intercompany loans or activities related thereto);

(19) contributions to a "rabbi" trust for the benefit of any employee, director, officer, manager, contractor, consultant, advisor or other service providers or other grantor trust subject to claims of creditors in the case of a bankruptcy of the Company, and Investments relating to non-qualified deferred payment plans in the ordinary course of business or consistent with past practice;

(20) Investments in joint ventures and similar entities and Unrestricted Subsidiaries having an aggregate fair market value, taken together with all other Investments made pursuant to this clause that are at that time outstanding, not to exceed the greater of (i) $175,000,000 and (ii) 35.0% of LTM EBITDA (with the fair market value of each Investment being measured at the time made and without giving effect to subsequent changes in value), *plus* the amount of any returns (including dividends, payments, interest, distributions, returns of principal, profits on sale, repayments, income and similar amounts) in respect of such Investments (without duplication for purposes of Section 7.05 of any amounts applied pursuant to clause (b) of Section 7.05(a)) with the fair market value of each Investment being measured at the time made and without giving effect to subsequent changes in value; *provided*, *however*, that if any Investment pursuant to this clause is made in any Person that is not the Company or a Restricted Subsidiary at the date of the making of such Investment and such Person becomes the Company or a Restricted Subsidiary after such date, such Investment shall thereafter be deemed to have been made pursuant to clause (1) or (2) above and shall cease to have been made pursuant to this clause;

(21) additional Investments having an aggregate fair market value, taken together with all other Investments made pursuant to this clause that are at that time outstanding, not to exceed the greater of (i) $300,000,000 and (ii) 60.0% of LTM EBITDA (with the fair market value of each Investment being measured at the time made and without giving effect to subsequent changes in value), *plus* the amount of any returns (including dividends, payments, interest, distributions, returns of principal, profits on sale, repayments, income and similar amounts) in respect of such Investments (without duplication for purposes of Section 7.05 of any amounts applied pursuant to clause (b) of Section 7.05(a)) with the fair market value of each Investment being measured at the time made and without giving effect to subsequent changes in value; *provided*, *however*, that if any Investment pursuant to this clause is made in any Person that is not the Company or a Restricted Subsidiary at the date of the making of such Investment and such Person becomes the Company or a Restricted Subsidiary after such date, such Investment shall thereafter be deemed to have been made pursuant to clause (1) or (2) above and shall cease to have been made pursuant to this clause;

(22) any Investment in a Similar Business having an aggregate fair market value, taken together with all other Investments made pursuant to this clause that are at that time outstanding, not to exceed the greater of (i) $125,000,000 and (ii) 25.0% of LTM EBITDA (with the fair market value of each Investment being measured at the time made and without giving effect to subsequent changes in value), *plus* the amount of any returns (including dividends, payments, interest, distributions, returns of principal, profits on sale, repayments, income and similar amounts) in respect of such Investments (without duplication for purposes of Section 7.05 of any amounts applied pursuant to clause (b) of Section 7.05(a)) with the fair market value of each Investment being measured at the time made and without giving effect to subsequent changes in value; *provided*, *however*, that if any Investment pursuant to this clause is made in any Person that is not the Company or a Restricted Subsidiary at the date of the making of such Investment and such Person becomes the Company or a Restricted Subsidiary after such date, such Investment shall thereafter be deemed to have been made pursuant to clause (1) or (2) above and shall cease to have been made pursuant to this clause;

(23) (i) Investments arising in connection with a Qualified Securitization Financing or Receivables Facility and (ii) distributions or payments of Securitization Fees and purchases of Securitization Assets or Receivables Assets in connection with a Qualified Securitization Financing or Receivables Facility;

(24) Investments in connection with the Transactions;

(25) repurchases of the Senior Secured Notes;

(26) Investments by an Unrestricted Subsidiary entered into prior to the day such Unrestricted Subsidiary is redesignated as a Restricted Subsidiary as described under the definition of "Unrestricted Subsidiary";

(27) guaranty and indemnification obligations arising in connection with surety bonds issued in the ordinary course of business or consistent with past practice;

(28) Investments (a) consisting of purchases and acquisitions of assets or services in the ordinary course of business or consistent with past practice, (b) made in the ordinary course of business or consistent with past practice in connection with obtaining, maintaining or renewing client, franchisee and customer contracts and loans or (c) advances, loans, extensions of credit (including the creation of receivables) or prepayments made to, and guarantees with respect to obligations of, franchisees, distributors, suppliers, lessors, licensors and licensees in the ordinary course of business or consistent with past practice;

(29) Investments in prepaid expenses, negotiable instruments held for collection and lease, utility and workers compensation, performance and similar deposits entered into as a result of the operations of the business in the ordinary course of business or consistent with past practice;

(30) Investments consisting of UCC Article 3 endorsements for collection or deposit and Article 4 trade arrangements with customers (or any comparable or similar provisions in other applicable jurisdictions) in the ordinary course of business or consistent with past practices;

(31) any Investment by any Captive Insurance Subsidiary in connection with the provision of insurance to the Company or any Subsidiaries, which Investment is made in the ordinary course of business or consistent with past practice of such Captive Insurance Subsidiary, or by reason of applicable law, rule, regulation or order, or that is required or approved by any regulatory authority having jurisdiction over such Captive Insurance Subsidiary or its business, as applicable;

(32) non-cash Investments in connection with tax planning and reorganization activities, and Investments in connection with any Permitted Intercompany Activities, Permitted Tax Restructuring and related transactions;

(33) Investments made from casualty insurance proceeds in connection with the replacement, substitution, restoration or repair of assets on account of a Casualty Event; and

(34) any other Investment so long as (x) no Default or Event of Default pursuant to Section 8.01(a), (f) or (g) exists and (y) immediately after giving pro forma effect to the Investment and the incurrence of any Indebtedness the net proceeds of which are used to make such Investment, the Consolidated Total Net Leverage Ratio shall be no greater than 3.10 to 1.00.

"**Permitted Liens**" means, with respect to any Person:

(1) Liens on assets or property of a Restricted Subsidiary that is not a Guarantor securing Indebtedness and other Obligations of any Restricted Subsidiary that is not a Guarantor;

(2) pledges, deposits or Liens (a) in connection with workmen's compensation laws, payroll taxes, unemployment insurance laws, employers' health tax and other social security laws or similar legislation or other insurance related obligations (including in respect of deductibles, self-insured retention amounts and premiums and adjustments thereto), (b) securing liability, reimbursement or indemnification obligations of (including obligations in respect of letters of credit or bank guarantees or similar instruments) for the benefit of insurance carriers under insurance or self-insurance arrangements or otherwise supporting the payments of items set forth in the foregoing clause (a), or (c) in connection with bids, tenders, completion guarantees, contracts, leases, utilities, licenses, public or statutory obligations, or to secure the performance of bids, trade contracts, government contracts and leases, statutory obligations, surety, stay, indemnity, warranty, release, judgment, customs, appeal, performance bonds, guarantees of government contracts, return of money bonds, bankers' acceptance facilities and obligations of a similar nature (including those to secure health, safety and environmental obligations), and obligations in respect of letters of credit, bank guarantees or similar instruments that have been posted to support the same, or as security for contested taxes or import or customs duties or for the payment of rent, or other obligations of like nature, in each case incurred in the ordinary course of business or consistent with past practice;

(3) Liens with respect to outstanding motor vehicle fines and Liens imposed by law or regulation, including carriers', warehousemen's, mechanics', landlords', suppliers', materialmen's, repairmen's, architects', construction contractors' or other similar Liens, in each case (x) for amounts not overdue for a period of more than 60 days or, if more than 60 days overdue, are unfiled and no other action has been taken to enforce such Liens or that are being contested in good faith by appropriate proceedings or (y) so long as such Liens do not individually or in the aggregate have a Material Adverse Effect;

(4) Liens for Taxes, assessments or other governmental charges, in each case (x) (i) that are not overdue for a period of more than 60 days, (ii) that are not yet payable or subject to penalties for nonpayment, (iii) that are being contested in good faith by appropriate proceedings and with respect to which appropriate reserves required pursuant to GAAP (or other applicable accounting principles) have been made in respect thereof or (iv) for property Taxes on property of the Company or one of its Subsidiaries that the Company (or the applicable Subsidiary) has determined to abandon if the sole recourse for such Tax is to such property or (y) so long as such Liens do not individually or in the aggregate have a Material Adverse Effect;

(5) encumbrances, charges, ground leases, easements (including reciprocal easement agreements), survey exceptions, restrictions, encroachments, protrusions, by-law, regulation, zoning restrictions or reservations of, or rights of others for, licenses, rights of way, servitudes, sewers, electric lines, drains, telegraph, telephone and cable television lines and other similar purposes, or zoning, building codes or other restrictions (including minor defects and irregularities in title and similar encumbrances) as to the use of real properties, exceptions on title policies insuring Liens granted on any mortgaged properties or any other collateral or Liens incidental to the conduct of the business of such Person or to the ownership of its properties, including servicing agreements, development agreements, site plan agreements, subdivision agreements, facilities sharing agreements, cost sharing agreements and other similar agreements, charges or encumbrances, which do not in the aggregate materially interfere with the ordinary course conduct of the business of the Company and its Restricted Subsidiaries, taken as a whole;

(6) Liens (a) securing Swap Obligations, Obligations in respect of Cash Management Agreements and the costs thereof; (b) that are rights of set-off, rights of pledge or other bankers' Liens (i) relating to treasury, depository and cash management services or any automated clearing house transfers of funds in the ordinary course of business or consistent with past practice, (ii) relating to pooled deposit or sweep accounts to permit satisfaction of overdraft or similar

obligations incurred in the ordinary course of business of the Company or any Subsidiary or consistent with past practice or (iii) relating to purchase orders and other agreements entered into with customers of the Company or any Restricted Subsidiary in the ordinary course of business or consistent with past practice; (c) on cash accounts securing Indebtedness and other Obligations permitted to be incurred under clause (8)(e) of Section 7.01(b) with financial institutions; (d) 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 or consistent with past practice and not for speculative purposes; and (e) (i) of a collection bank arising under Section 4-210 of the UCC or any comparable or successor provision on items in the course of collection, (ii) in favor of a banking or other financial institution or electronic payment service providers arising as a matter of law encumbering deposits (including the right of set-off) arising in the ordinary course of business in connection with the maintenance of such accounts and (iii) arising under customary general terms and conditions of the account bank in relation to any bank account maintained with such bank and attaching only to such account and the products and proceeds thereof, which Liens, in any event, do not secure any Indebtedness;

(7) leases, licenses, subleases and sublicenses of assets (including real property, intellectual property, software and other technology rights), in each case entered into in the ordinary course of business, consistent with past practice or, with respect to intellectual property, software and other technology rights, that are not material to the conduct of the business of the Company and its Restricted Subsidiaries, taken as a whole;

(8) Liens securing or otherwise arising out of judgments, decrees, attachments, orders or awards not giving rise to an Event of Default under Section 8.01(h);

(9) Liens (a) securing Capitalized Lease Obligations or Purchase Money Obligations, or securing the payment of all or a part of the purchase price of, or securing Indebtedness or other Obligations incurred to finance or refinance the acquisition, improvement or construction of, assets or property acquired or constructed in the ordinary course of business; *provided* that (i) the aggregate principal amount of Indebtedness secured by such Liens is otherwise permitted to be incurred under this Agreement and (ii) any such Liens may not extend to any assets or property of the Company or any Restricted Subsidiary other than the assets or property the acquisition, leasing, expansion, construction, installation, replacement, repair or improvement and assets and property affixed or appurtenant thereto and accessions, additions, improvements, proceeds, dividends or distributions thereof, including after-acquired property that is (A) affixed or incorporated into the property or assets covered by such Lien, (B) after-acquired property or assets subject to a Lien securing such Indebtedness, the terms of which Indebtedness require or include a pledge of after-acquired property or assets and (C) the proceeds and products thereof and (b) any interest or title of a lessor, sublessor, franchisor, licensor or sublicensor or secured by a lessor's, sublessor's, franchisor's, licensor's or sublicensor's interest under any Capitalized Lease Obligations or Non-Financing Lease Obligations;

(10) Liens arising from UCC financing statements, including precautionary financing statements (or similar filings) regarding operating leases or consignments entered into by the Company and its Restricted Subsidiaries;

(11) Liens existing on the Closing Date, including any Liens securing any Refinancing Indebtedness of any Indebtedness secured by such Liens;

(12) Liens on property, other assets or shares of stock of a Person at the time such Person becomes a Subsidiary (or at the time the Company or a Subsidiary acquires such property, other assets or shares of stock, including any acquisition by means of a merger, amalgamation, consolidation or other business combination transaction with or into the Company or any Restricted Subsidiary); *provided*, *however*, that such Liens are not created in anticipation of such other Person becoming a Subsidiary (or such acquisition of such property, other assets or stock); *provided*, *further*, that such Liens are limited to all or part of the same property, other assets or stock (*plus* property and assets affixed or appurtenant thereto and additions, improvements, accessions, proceeds, dividends or distributions thereof, including (i) after-acquired property that is affixed or incorporated into the property or assets covered by such Lien, (ii) after-acquired property or assets subject to a Lien securing such Indebtedness, the terms of which Indebtedness require or include a pledge of after-acquired property or assets and (iii) the proceeds and products thereof) that secured (or, under the written arrangements under which such Liens arose, could secure) the Obligations relating to any Indebtedness or other obligations to which such Liens relate;

(13) Liens securing Obligations relating to any Indebtedness or other obligations of the Company or a Restricted Subsidiary owing to the Company or a Restricted Subsidiary, or Liens in favor of the Company or any Restricted Subsidiary or the Agents;

(14) Liens securing Refinancing Indebtedness incurred to refinance Indebtedness that was previously so secured, and permitted to be secured under this Agreement; *provided* that any such Lien is limited to all or part of the same property or assets (*plus* property and assets affixed or appurtenant thereto and additions, improvements, accessions, proceeds, dividends or distributions thereof, including after-acquired property that is (i) affixed or incorporated into the property or assets covered by such Lien, (ii) after-acquired property or assets subject to a Lien securing such Indebtedness, the terms of which Indebtedness require or include a pledge of after-acquired property or assets and (iii) the proceeds and products thereof) that secured (or, under the written arrangements under which the original Lien arose, could secure) the Obligations relating to the Indebtedness or other obligations being refinanced or is in respect of property or assets that is or could be the security for or subject to a Permitted Lien hereunder;

(15) (a) mortgages, liens, security interests, restrictions, encumbrances or any other matters of record that have been placed by any government, statutory or regulatory authority, developer, landlord or other third party on property over which the Company or any Restricted Subsidiary has easement rights or on any leased property and subordination or similar arrangements relating thereto and (b) any condemnation or eminent domain proceedings affecting any real property;

(16) any encumbrance or restriction (including put and call arrangements) with respect to Capital Stock of any joint venture secured financing arrangement, joint venture or similar arrangement pursuant to any joint venture secured financing arrangement, joint venture or similar agreement;

(17) Liens on property or assets under construction (and related rights) in favor of a contractor or developer or arising from progress or partial payments by a third party relating to such property or assets;

(18) Liens arising out of conditional sale, title retention, hire purchase, consignment or similar arrangements for the sale or purchase of goods entered into in the ordinary course of business or consistent with past practice;

(19) Liens securing Indebtedness and other obligations in respect of (a) the Facilities, including any Letters of Credit, any New Loan Commitment and any Extended Loans and (b) obligations of the Company or any Subsidiary in respect of any obligations in respect of Cash Management Agreements, Secured Hedge Agreements or Swap Obligations provided by any lender party to this Agreement or Affiliate of such lender or any other Hedge Bank or Cash Management Bank (or any Person that was a lender or an Affiliate of a lender at the time the applicable agreements in respect of such Obligations in respect of Cash Management Agreements or Swap Obligation were entered into), including all Obligations;

(20) Liens securing Indebtedness and other obligations under clause (5) of Section 7.01(b); *provided* that such Liens shall only be permitted if such Liens are limited to all or part of the same property or assets, including Capital Stock (*plus* property and assets affixed or appurtenant thereto and additions, improvements, accessions, proceeds, dividends or distributions thereof, including after-acquired property that is (i) affixed or incorporated into the property or assets covered by such Lien, (ii) after-acquired property or assets subject to a Lien securing such Indebtedness, the terms of which Indebtedness require or include a pledge of after-acquired property or assets and (iii) the proceeds and products thereof) acquired, or of any Person acquired or merged, consolidated or amalgamated with or into the Company or any Restricted Subsidiary, in any transaction to which such Indebtedness or other Obligation relates;

(21) Liens securing Indebtedness and other obligations under clause (1), (4)(c), (11) (*provided* that, in the case of clause (11), such Liens cover only the assets of non-Guarantors) or (17) of Section 7.01(b);

(22) [reserved];

(23) Liens on Capital Stock or other securities or assets of any Unrestricted Subsidiary that secure Indebtedness or other obligations of such Unrestricted Subsidiary;

(24) Liens deemed to exist in connection with Investments permitted under clause (4) of the definition of "Cash Equivalents";

(25) Liens on (i) goods the purchase price of which is financed by a documentary letter of credit issued for the account of the Company or any Subsidiary or Liens on bills of lading, drafts or other documents of title arising by operation of law or pursuant to the standard terms of agreements relating to letters of credit, bank guarantees and other similar instruments and (ii) specific items of inventory or other goods and proceeds of any Person securing such Person's obligations in respect of bankers' acceptances or documentary letters of credit issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods;

(26) Liens on vehicles or equipment of the Company or any Restricted Subsidiary in the ordinary course of business or consistent with past practice;

(27) Liens on assets or securities deemed to arise in connection with and solely as a result of the execution, delivery or performance of contracts to sell such assets or securities if such sale is otherwise not prohibited by this Agreement;

(28) (a) Liens on insurance policies and the proceeds thereof securing the financing of the premiums with respect thereto, and (b) Liens, pledges, deposits made or other security provided to secure liabilities to, or indemnification obligations of (including obligations in respect of letters of credit or bank guarantees for the benefits of), insurance carriers in the ordinary course of business or consistent with past practice;

(29) Liens solely on any cash earnest money deposits made in connection with any letter of intent or purchase agreement permitted under this Agreement;

(30) Liens (i) on cash advances or escrow deposits in favor of the seller of any property to be acquired in an Investment permitted under this Agreement to be applied against the purchase price for such Investment or otherwise in connection with any escrow arrangements with respect to any such Investment (including any letter of intent or purchase agreement with respect to such Investment), and (ii) consisting of an agreement to sell, transfer, lease or otherwise dispose of any property in an asset sale, in each case, solely to the extent such Investment or sale, transfer, lease or other disposition, as applicable, would have been permitted on the date of the creation of such Lien;

(31) Liens securing Indebtedness and other obligations in an aggregate principal amount not to exceed the greater of (i) $250,000,000 and (ii) 50.0% of LTM EBITDA at the time incurred and any Liens securing any Refinancing Indebtedness of any Indebtedness secured by such Liens;

(32) Liens then existing with respect to assets of an Unrestricted Subsidiary on the day such Unrestricted Subsidiary is redesignated as a Restricted Subsidiary as described under the definition of "Unrestricted Subsidiary";

(33) Liens securing Indebtedness and other obligations permitted under Section 7.01(a);

(34) Liens deemed to exist in connection with Investments in repurchase agreements permitted under Section 7.05; *provided* that such Liens do not extend to any assets other than those that are the subject of such repurchase agreement;

(35) Liens arising in connection with a Qualified Securitization Financing or a Receivables Facility, and back-up Liens in connection with any other factoring, securitization or similar arrangement;

(36) Settlement Liens;

(37) rights of recapture of unused real property in favor of the seller of such property set forth in customary purchase agreements and related arrangements with any government, statutory or regulatory authority;

(38) the rights reserved to or vested in any Person or government, statutory or regulatory authority by the terms of any lease, license, franchise, grant or permit held by the Company or any Restricted Subsidiary 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;

(39) restrictive covenants affecting the use to which real property may be put and Liens or covenants restricting or prohibiting access to or from lands abutting on controlled access highways or covenants affecting the use to which lands may be put; *provided* that such Liens or covenants do not interfere with the ordinary conduct of the business of the Company or any Restricted Subsidiary;

(40) Liens on property, assets or Permitted Investments used to defease or to satisfy or discharge Indebtedness; *provided* that such defeasance, satisfaction or discharge is not prohibited by this Agreement;

(41) Liens relating to escrow arrangements securing Indebtedness, including (i) Liens on escrowed proceeds from the issuance of Indebtedness for the benefit of the related holders of debt securities or other Indebtedness (or the underwriters, arrangers, trustee or collateral agent thereof) and (ii) Liens on cash or Cash Equivalents set aside at the time of the incurrence of any Indebtedness, in either case to the extent such cash or Cash Equivalents prefund the payment of interest or premium or discount on such Indebtedness (or any costs related to the issuance of such Indebtedness) and are held in an escrow account or similar arrangement to be applied for such purpose;

(42) Liens securing the Senior Secured Notes (other than any Additional Notes (as defined in the applicable Senior Secured Notes Documents)) and the related Guarantees;

(43) Liens on assets securing any Indebtedness owed to any Captive Insurance Subsidiary by the Company or any Restricted Subsidiary;

(44) Liens arising in connection with any Permitted Intercompany Activities, Permitted Tax Restructuring and related transactions;

(45) Liens securing Permitted Debt Exchange Notes; and

(46) Liens arising in connection with the Transactions.

In the event that a Permitted Lien meets the criteria of more than one of the types of Permitted Liens (at the time of incurrence or at a later date), the Company in its sole discretion may divide, classify or from time to time reclassify all or any portion of such Permitted Lien in any manner that complies with this Agreement and such Permitted Lien shall be treated as having been made pursuant only to the clause or clauses of the definition of Permitted Lien to which such Permitted Lien has been classified or reclassified.

"**Permitted Payments**" has the meaning specified in Section 7.05(b).

"**Permitted Tax Amount**" means (a) for any taxable period for which the Company is a member (or is an entity treated as disregarded from a member) of a group filing a consolidated, group, affiliate, unitary, combined, or similar income or similar tax return with any direct or indirect parent of the Company, any income or similar Taxes for which such parent is liable that are attributable to the taxable income of the Company and its applicable Subsidiaries up to an amount not to exceed with respect to such taxable period the amount of any such Taxes that the Company and such Subsidiaries would have been required to pay on a separate company basis or on a consolidated basis calculated as if the Company and such Subsidiaries had paid Tax on a consolidated, combined, group, affiliated, unitary or similar basis on behalf of a consolidated, combined, affiliated, unitary or similar group consisting only of the Company and such Subsidiaries for all relevant taxable periods; provided that, such amount attributable to the taxable income of an Unrestricted Subsidiary for each taxable period shall not exceed the amount actually paid by such Unrestricted Subsidiary to any Loan Party for such purpose and (b) franchise and similar taxes required to be paid by any direct or indirect parent of the Company to maintain its organizational existence.

"**Permitted Tax Restructuring**" means any reorganizations, restructuring, and other activities related to Tax planning, Tax reorganization, or any Tax restructuring entered into prior to, on or after the date hereof so long as such Permitted Tax Restructuring is not materially adverse to the holders of the Loans (as determined by the Company in good faith). For purposes of clarity, a Permitted Tax Restructuring may include (but is not limited to) reorganizations, restructurings, and other activities related to Tax planning, Tax reorganization, or any Tax restructuring entered into by or among any direct or indirect parent of the Company, the Company and any Subsidiary of the Company.

"**Person**" means any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, limited liability company, 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 any ERISA Affiliate or under which any Loan Party or ERISA Affiliate has any liability or obligation, whether fixed or contingent, and, in any case, is subject to Title IV of ERISA or the Pension Funding Rules. For greater certainty, "Plan" excludes any Foreign Plan.

"**Platform**" has the meaning specified in Section 6.02.

"**Pledged Debt**" means "Pledged Debt" (or similar term) as defined in the Security Agreement.

"**Pledged Interests**" means "Pledged Interests" (or similar term) as defined in the Security Agreement.

"**Pounds Sterling**" and "**£**" means freely transferable lawful money of the United Kingdom (expressed in Pounds Sterling).

"**Preferred Stock,**" as applied to the Capital Stock of any Person, means Capital Stock of any class or classes (however designated) which is preferred as to the payment of dividends or as to the distribution of assets upon any voluntary or involuntary liquidation or dissolution of such Person, over shares of Capital Stock of any other class of such Person.

"**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, for any day, the rate of interest last quoted by *The Wall Street Journal* as the "Prime Rate" in the U.S. for such day 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 for such day 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), in each case, for such day. Each change in the Prime Rate shall be effective on the date that such change is publicly announced or quoted as being effective.

"**Pro Rata Share**" means, with respect to each Lender and any Facility or all the Facilities or any Tranche or all the Tranches (as applicable) 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**" means the projections of the Company and its Subsidiaries included in the Information Memorandum and any other projections, financial estimates, forecast and any other forward-looking statements (including statements with respect to booked business) of such entities furnished to the Lenders or the Agents in writing by or on behalf of the Company or any of its Subsidiaries prior to the Closing Date.

"**PTE**" means a prohibited transaction class exemption issued by the U.S. Department of Labor, as any such exemption may be amended from time to time.

"**Public Company Costs**" means, as to any Person, costs associated with, or in anticipation of, or preparation for, compliance with the requirements of the Sarbanes-Oxley Act of 2002 and the rules and regulations promulgated in connection therewith and costs relating to compliance with the provisions of the Securities Act and the Exchange Act or any other comparable body of laws, rules or regulations, as companies with listed equity, directors' compensation, fees and expense reimbursement, costs relating to enhanced accounting functions and investor relations, stockholder meetings and reports to stockholders, directors' and officers' insurance and other executive costs, legal and other professional fees, listing fees and other transaction costs, in each case to the extent arising solely by virtue of the listing of such Person's equity securities on a national securities exchange or issuance of public debt securities.

"**Public Lender**" has the meaning specified in Section 6.02.

"**Public Side Information**" has the meaning specified in Section 6.02.

"**Purchase Money Obligations**" means any Indebtedness incurred to finance or refinance the acquisition, leasing, expansion, construction, installation, replacement, repair or improvement of property (real or personal), equipment or assets (including Capital Stock), and whether acquired through the direct acquisition of such property or assets, or the acquisition of the Capital Stock of any Person owning such property or assets, or otherwise.

"**Qualified Securitization Financing**" means any Securitization Facility that meets the following conditions:

(i) the Board of Directors shall have determined in good faith that such Securitization Facility (including financing terms, covenants, termination events and other provisions) is in the aggregate economically fair and reasonable to the Company and its Restricted Subsidiaries,

(ii) all sales of Securitization Assets and related assets by the Company or any Restricted Subsidiary to the Securitization Subsidiary or any other Person are made for fair consideration (as determined in good faith by the Company) and

(iii) the financing terms, covenants, termination events and other provisions thereof shall be fair and reasonable terms (as determined in good faith by the Company) and may include Standard Securitization Undertakings.

"**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 (a) any accounts receivable owed to the Company or a Restricted Subsidiary subject to a Receivables Facility and the proceeds thereof and (b) all collateral securing such accounts receivable, all contracts and contract rights, guarantees or other obligations in respect of such accounts receivable, all records with respect to such accounts receivable and any other assets customarily transferred together with accounts receivable in connection with a non-recourse accounts receivable factoring arrangement.

"**Receivables Facility**" means (x) the receivables factoring arrangement pursuant to the Master Factoring Agreement to be entered into by and between BD and/or certain of its Subsidiaries, on one hand, and the Company and/or certain of its Subsidiaries, on the other hand in connection with the Transactions, (as such agreement may be amended, replaced, supplemented or modified from time to time either (i) in a manner not materially adverse to the interests of the Lenders or (ii) on arm's-length terms (as determined in good faith by the Company)) and (y) any arrangement between the Company or a Subsidiary and a commercial bank, an asset based lender or other financial institution or an Affiliate thereof pursuant to which (a) the Company or such Subsidiary, as applicable, sells (directly or indirectly) to such commercial bank, asset based lender or other financial institution (or such Affiliate) Receivables Assets and (b) the obligations of the Company or such Restricted Subsidiary, as applicable, thereunder are non-recourse (except for Securitization Repurchase Obligations) to the Company and such Subsidiary and (c) the financing terms, covenants, termination events and other provisions thereof shall be on market terms (as determined in good faith by the Company) and may include Standard Securitization Undertakings, and shall include any guaranty in respect of such arrangements.

"**Recipient**" means the Administrative Agent, any Lender or any L/C Issuer.

"**Reference Period**" has the meaning specified in Section 1.10(a).

"**Refinancing Amendment**" means an amendment to this Agreement, in form and substance reasonably satisfactory to the Administrative Agent, among the Company, 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 Indebtedness**" means Indebtedness that is incurred to refund, refinance, replace, exchange, renew, repay or extend (including pursuant to any defeasance or discharge mechanism) any Indebtedness (or unutilized commitment in respect of Indebtedness) existing on the Closing Date or incurred (or established) in compliance with this Agreement (including Indebtedness of the Company that refinances Indebtedness of any Restricted Subsidiary and Indebtedness of any Restricted Subsidiary that refinances Indebtedness of the Company or a Restricted Subsidiary) including Indebtedness that refinances Refinancing Indebtedness, and Indebtedness incurred pursuant to a commitment that refinances any Indebtedness or unutilized commitment; *provided*, *however*, that:

(1) (a) such Refinancing Indebtedness (x) has a Weighted Average Life to Maturity at the time such Refinancing Indebtedness is incurred which is not less than the remaining Weighted Average Life to Maturity of the Indebtedness being refunded, refinanced, replaced, exchanged, renewed, repaid or extended or (y) requires no or nominal payments in cash (other than interest payments) prior to the date that is 91 days after the Latest Maturity Date for the then outstanding Initial Term Loans; and (b) to the extent such Refinancing Indebtedness refinances Subordinated Indebtedness, Disqualified Stock or Preferred Stock, such Refinancing Indebtedness is Subordinated Indebtedness, Disqualified Stock or Preferred Stock, respectively, and, in the case of Subordinated Indebtedness, is subordinated to the Loans on customary terms (as determined by the Company in good faith);

(2) Refinancing Indebtedness shall not include:

(i) Indebtedness of a Subsidiary of the Company that is not a Guarantor that refinances Indebtedness of any Borrower or a Guarantor; or

(ii) Indebtedness of the Company or a Restricted Subsidiary that refinances Indebtedness of an Unrestricted Subsidiary; and

(3) such Refinancing Indebtedness is incurred in an aggregate principal amount (or if issued with original issue discount, an aggregate issue price) that is equal to or less than the sum of (x) the aggregate principal amount (or if issued with original issue discount, the aggregate accreted value) then outstanding of the Indebtedness being Refinanced, *plus* (y) an amount equal to any unutilized commitment relating to the Indebtedness being refinanced or otherwise then outstanding under a financing arrangement being refinanced to the extent the unutilized commitment being refinanced could be drawn in compliance with Section 7.01 immediately prior to such refinancing, *plus* (z) accrued and unpaid interest, dividends, premiums (including tender premiums), defeasance costs, underwriting discounts, fees, costs and expenses (including original issue discount, upfront fees or similar fees) in connection with such refinancing.

"**Refunding Capital Stock**" has the meaning specified in Section 7.05(b).

"**Register**" has the meaning specified in Section 10.07(c).

"**Regulated Bank**" means an Approved Commercial Bank 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 Board 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.

"**Regulation S-X**" means Regulation S-X under the Securities Act.

"**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.

"**Release**" means any release, spill, emission, leaking, pumping, pouring, injection, escaping, deposit, disposal, discharge, dispersal, dumping, leaching, movement or migration of any Hazardous Materials into or through the Environment (including the abandonment or disposal of any barrels, containers or other closed receptacles containing any Hazardous Material).

"**Relevant Governmental Body**" means (a) with respect to a Benchmark Replacement in respect of Obligations, interest, fees, commissions or other amounts denominated in, or calculated with respect to, Dollars, the FRB and/or the NYFRB, or a committee officially endorsed or convened by the FRB and/or the NYFRB or any successor thereto and (b) with respect to a Benchmark Replacement in respect of Obligations, interest, fees, commissions or other amounts denominated in, or calculated with respect to, any Alternative Currency, (1) the central bank for the currency in which such Obligations, interest, fees, commissions or other amounts are denominated, or calculated with respect to, or any central bank or other supervisor which is responsible for supervising either (A) such Benchmark Replacement or (B) the administrator of such Benchmark Replacement or (2) any working group or committee officially endorsed or convened by (A) the central bank for the currency in which such Obligations, interest, fees, commissions or other amounts are denominated, or calculated with respect to, (B) any central bank or other supervisor that is responsible for supervising either (i) such Benchmark Replacement or (ii) the administrator of such Benchmark Replacement, (C) a group of those central banks or other supervisors or (D) the Financial Stability Board or any part thereof.

"**Relevant Transaction**" has the meaning specified in Section 2.05(b)(ii).

"**Remaining Obligations**" means contingent indemnification obligations as to which no claim has been asserted and obligations and liabilities under Secured Cash Management Agreements and Secured Hedge Agreements, and Letters of Credit that 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.

"**Replaceable Lender**" has the meaning specified in Section 3.08(a).

"**Reportable Event**" means any of the events set forth in Section 4043(c) of ERISA or the regulations issued thereunder, other than events for which the 30-day notice period has been waived.

"**Repricing Event**" means (i) any prepayment or repayment of any tranche of Initial Term Loans, in whole or in part, with the proceeds of, or conversion of any portion of such Initial Term Loans into, any new or replacement tranche of broadly-syndicated term loans of like currency under credit facilities incurred for the primary purpose (as determined by the Company in good faith) of repaying, refinancing, or replacing the Initial Term Loans with loans bearing interest with an All-in Yield less than the All-in Yield applicable to such portion of the Initial Term Loans (as such comparative yields are determined in the reasonable judgment of the Administrative Agent in consultation with the Company, consistent with generally accepted financial practices), (ii) any amendment to any tranche of Initial Term Loans that reduces the All-in Yield applicable to the Initial Term Loans and (iii) any prepayment, repayment, refinancing, substitution or replacement of Initial Term Loans by any Lender pursuant to Section 3.08 as a result of, or in connection with, such Lender not agreeing to or otherwise consenting to any waiver, consent, modification or amendment referred to in clause (ii) above; *provided* that notwithstanding the foregoing, in no event shall any prepayment or repayment or amendment (or assignment) effected in connection with a transaction that would, if consummated, constitute a Change of Control or an Enterprise Transformative Event constitute a Repricing 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 50.0% 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) and (b) aggregate unused Revolving Credit Commitments; *provided* that the unused Revolving Credit Commitment of, and the portion of the Total Outstandings held by any Defaulting Lender shall be excluded for purposes of making a determination of Required Lenders; *provided*, *further*, that, for purposes of this definition, the outstanding principal amount of Alternative Currency Loans as of any date of determination shall be determined using the Dollar Amount thereof.

"**Required Revolving Lenders**" means, as of any date of determination, Revolving Credit Lenders holding more than 50.0% 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; *provided*, *further*, that, for purposes of this definition, the outstanding principal amount of Alternative Currency Loans as of any date of determination shall be determined using the Dollar Amount thereof.

"**Reserved Indebtedness Amount**" has the meaning specified in Section 1.12.

"**Resolution Authority**" means an EEA Resolution Authority or, with respect to any UK Financial Institution, a UK Resolution Authority.

"**Responsible Officer**" means the chief executive officer, representative, director, manager, president, vice president, executive vice president, chief financial officer, treasurer or assistant treasurer, secretary or assistant secretary, an authorized signatory, an attorney-in-fact (to the extent empowered by the Board of Directors/managers of the Company) or other similar officer of a Loan Party. Any document delivered hereunder that is signed by a Responsible Officer of a Loan Party shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of such Loan Party and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Loan Party.

"**Restricted Group**" means the collective reference to from and after the Spin-Off Date, the Company and its Restricted Subsidiaries, and "**Restricted Group Member**" means any one of them.

"**Restricted Investment**" means any Investment other than a Permitted Investment.

"**Restricted Payment**" has the meaning specified in Section 7.05(a).

"**Restricted Subsidiary**" means any Subsidiary of a Person other than an Unrestricted Subsidiary of such Person. Unless otherwise indicated in this Agreement, all references to Restricted Subsidiaries shall mean Restricted Subsidiaries of the Company.

"**Retained Asset Excess Proceeds**" has the meaning specified in Section 2.05(b)(ii).

"**Retained Declined Proceeds**" has the meaning specified in Section 2.05(c).

"**Retained Excess Cash Flow Amount**" has the meaning specified in Section 2.05(b).

"**Revolving Commitment Increase Lender**" has the meaning specified in Section 2.14(e).

"**Revolving Credit Borrowing**" means a borrowing under the Revolving Credit Facility consisting of simultaneous Revolving Credit Loans of the same Type and, in the case of SOFR Loans or Eurocurrency Rate 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, (i) its Initial Revolving Credit Commitment, (ii) its Revolving Credit Commitment Increase, (iii) its New Revolving Commitment or (iv) its Specified Refinancing Revolving Credit Commitment. The amount of each Revolving Credit Lender's Initial Revolving Credit Commitment is as set forth in the definition thereof and the amount of each Lender's other Revolving Credit Commitments shall be as set forth in the Assignment and Assumption or in the amendment or agreement relating to the respective Revolving Credit Commitment Increase, New Revolving Commitment or Specified Refinancing Revolving Credit Commitment pursuant to which such Lender shall have assumed its Revolving Credit Commitment, as applicable, as such amounts may be adjusted from time to time in accordance with 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 or that holds any Outstanding Amount in respect of Revolving Credit Loans and/or L/C Obligations at such time (and after the termination of all Revolving Credit Commitments, any Lender that holds any Outstanding Amount in respect of Revolving Credit Loans and/or L/C Obligations).

"**Revolving Credit Loan**" means an advance made by any Revolving Credit Lender under any Revolving Credit Facility (including, for the avoidance of doubt, the Initial Revolving Tranche).

"**Revolving Credit Note**" means a promissory note of the applicable Borrower 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 applicable Borrower 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, New Revolving Loans or Letters of Credit are made 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 pursuant to the terms hereof (*e.g.*, New Revolving Commitments and Extended Revolving Commitments).

"**S&P**" means Standard & Poor's Ratings Services, a Standard & Poor's Financial Services LLC business or any successor to the rating agency business thereof.

"**Sale and Leaseback Transaction**" means any arrangement providing for the leasing by the Company or any of its Restricted Subsidiaries of any real or tangible personal property, which property has been or is to be sold or transferred by the Company or such Restricted Subsidiary to a third Person in contemplation of such leasing.

"**Sanctioned Country**" means, at any time, a country, region, or territory that is the subject of a general export, import, financial, investment or other trade-related embargo under any Sanctions Laws and Regulations, which as of the date of this Agreement consist of Cuba, Iran, North Korea, Syria and the Crimea Region of Ukraine.

"**Sanctioned Person**" means, at any time, any Person that is the subject or target of Sanctions Laws and Regulations, including (a) any Person listed in any Sanctions Laws and Regulations-related lists of designated Persons maintained by the U.S. government (including OFAC's Specially Designated Nationals and Blocked Parties List, the U.S. Department of State's list of Debarred Parties, and the U.S. Department of Commerce's Entity List), the United Nations Security Council, Her Majesty's Treasury of the United Kingdom or any European Union member state, (b) any Person located, operating, organized, or resident in a Sanctioned Country, and (c) any Person owned or controlled by any Person or Persons described in clause (a) or (b) above.

"**Sanctions Laws and Regulations**" means (i) any economic or financial sanctions or other requirements imposed by or based upon the obligations or authorities set forth in the U.S. International Emergency Economic Powers Act (50 U.S.C. §§ 1701 *et seq*.), the U.S. Trading with the Enemy Act (50 U.S.C. App. §§ 1 *et seq*.), the Export Administration Act, the Export Administration Regulations, the U.S. Syria Accountability and Lebanese Sovereignty Act, the U.S. Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, the Iran Sanctions Act of 1996, Section 1245 of the National Defense Authorization Act of 2012, all as amended, or any of the foreign assets control regulations (including 31 C.F.R., Subtitle B, Chapter V, as amended) or any other law or executive order relating thereto administered by the U.S. Department of the Treasury Office of Foreign Assets Control ("**OFAC**"), the U.S. Department of Commerce, the U.S. Department of State, and any similar law, regulation, or executive order that may be enacted, from time to time, by the United States government and (ii) any economic or financial sanctions or other requirements imposed under similar laws or regulations enacted by the European Union or any member state thereof or the United Kingdom, or administered, enacted or enforced by the respective governmental institutions or agencies of any of the foregoing, including, without limitation, Her Majesty's Treasury of the United Kingdom, that apply to the Loan Parties or any of their respective Subsidiaries (as any of the foregoing laws may from time to time be amended, renewed, extended or replaced).

"**SEC**" means the U.S. Securities and Exchange Commission or any Governmental Authority succeeding to any of its principal functions.

"**Section 2.19 Additional Amendment**" has the meaning specified in Section 2.19(c).

"**Secured Cash Management Agreement**" means any Cash Management Agreement that is entered into by and between any Loan Party or any Restricted Subsidiary and any Cash Management Bank, except for any such Cash Management Agreement designated by the Company in writing to the Administrative Agent and the relevant Cash Management Bank 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 Hedge Agreement**" means any Swap Contract that is entered into by and between any Loan Party or any Restricted Subsidiary and any Hedge Bank, except for any such Swap Contract designated by the Company 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**" has the meaning specified in the Security Agreement.

"**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 Securities Act of 1933, as amended, and the rules and regulations of the SEC promulgated thereunder, as amended.

"**Securitization Asset**" means (a) any accounts receivable, mortgage receivables, loan receivables, royalty, franchise fee, license fee, patent or other revenue streams and other rights to payment or related assets and the proceeds thereof and (b) all collateral securing such receivable or asset, all contracts and contract rights, guarantees or other obligations in respect of such receivable or asset, lockbox accounts and records with respect to such account or asset and any other assets customarily transferred (or in respect of which security interests are customarily granted) together with accounts or assets in connection with a securitization, factoring or receivable sale transaction.

"**Securitization Facility**" means any of one or more securitization, financing, factoring or sales transactions, as amended, supplemented, modified, extended, renewed, restated or refunded from time to time, pursuant to which the Company or any of its Restricted Subsidiaries sells, transfers, pledges or otherwise conveys any Securitization Assets (whether now existing or arising in the future) to a Securitization Subsidiary or any other Person.

"**Securitization Fees**" means distributions or payments made directly or by means of discounts with respect to any Securitization Asset or Receivables Asset or participation interest therein issued or sold in connection with, and other fees, expenses and charges (including commissions, yield, interest expense and fees and expenses of legal counsel) paid in connection with, any Qualified Securitization Financing or Receivables Facility.

"**Securitization Repurchase Obligation**" means any obligation of a seller of Securitization Assets or Receivables Assets in a Qualified Securitization Financing or a Receivables Facility to repurchase or otherwise make payments with respect to Securitization Assets 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, offset 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.

"**Securitization Subsidiary**" means any Subsidiary of the Company in each case formed for the purpose of and that solely engages in one or more Qualified Securitization Financings or Receivables Facilities and other activities reasonably related thereto or another Person formed for this purpose.

"**Security Agreement**" means, collectively, the First Lien Security Agreement, dated as of the Spin-Off Date, executed by and among the Loan Parties party thereto and the Collateral Agent, together with each other security agreement and Security Agreement Supplement executed and delivered pursuant to Section 6.12, 6.14 or 6.16.

"**Security Agreement Supplement**" means the Security Agreement Supplements, as defined in the Security Agreement.

"**SEMS**" means the Superfund Enterprise Management System maintained by the U.S. Environmental Protection Agency.

"**Senior Secured Notes**" means the 5.000% Senior Secured Notes and the 6.750% Senior Secured Notes.

"**Senior Secured Notes Documents**" means the 5.000% Senior Secured Notes Indenture, the 6.750% Senior Secured Notes Indenture and, in each case, the other transaction documents referred to therein (including any related guarantee, security agreement, the notes and the notes purchase agreement).

"**Series LLC**" shall mean any series of a limited liability company (including any protected or registered series) established in accordance with Section 18-215(b) or 18-218 of the Delaware Limited Liability Company Act or a comparable provision of any other Law.

"**Series LP**" shall mean any series of a limited partnership (including any protected or registered series) established in accordance with Section 17-218(b) or 17-221 of the Delaware Limited Partnership Act or a comparable provision of any other Law.

"**Settlement**" means the transfer of cash or other property with respect to any credit or debit card charge, check or other instrument, electronic funds transfer, or other type of paper-based or electronic payment, transfer, or charge transaction for which a Person acts as a processor, remitter, funds recipient or funds transmitter in the ordinary course of its business.

"**Settlement Asset**" means any cash, receivable or other property, including a Settlement Receivable, due or conveyed to a Person in consideration for a Settlement made or arranged, or to be made or arranged, by such Person or an Affiliate of such Person.

"**Settlement Indebtedness**" means any payment or reimbursement obligation in respect of a Settlement Payment.

"**Settlement Lien**" means any Lien relating to any Settlement or Settlement Indebtedness (and may include, for the avoidance of doubt, the grant of a Lien in or other assignment of a Settlement Asset in consideration of a Settlement Payment, Liens securing intraday and overnight overdraft and automated clearing house exposure, and similar Liens).

"**Settlement Payment**" means the transfer, or contractual undertaking (including by automated clearing house transaction) to effect a transfer, of cash or other property to effect a Settlement.

"**Settlement Receivable**" means any general intangible, payment intangible, or instrument representing or reflecting an obligation to make payments to or for the benefit of a Person in consideration for a Settlement made or arranged, or to be made or arranged, by such Person.

"**Similar Business**" means (a) any businesses, services or activities engaged in by the Company or any of its Subsidiaries or any Associates on the Spin-Off Date (after giving effect to the Transactions), (b) any businesses, services and activities engaged in by the Company or any of its Subsidiaries or any Associates that are related, complementary, incidental, ancillary or similar to any of the foregoing or are extensions or developments of any thereof and (c) a Person conducting a business, service or activity specified in clauses (a) and (b), and any Subsidiary thereof. For the avoidance of doubt, any Person that invests in or owns Capital Stock or Indebtedness of another Person that is engaged in a Similar Business shall be deemed to be engaged in a Similar Business.

"**SOFR**" means a rate equal to the secured overnight financing rate as administered by the SOFR Administrator.

"**SOFR Administrator**" means the Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate).

"**SOFR Borrowing**" means, as to any Borrowing, the SOFR Loans comprising such Borrowing.

"**SOFR Loan**" means a Loan that bears interest at a rate based on Term SOFR, other than pursuant to clause (c) of the definition of "Alternate Base Rate".

"**Sold Entity or Business**" has the meaning specified in the definition of the term "Consolidated EBITDA."

"**Solvent**" means, with respect to the Company and its Restricted Subsidiaries on any date of determination, that on such date (a) the sum of the debt (including contingent liabilities) of such Person, taken as a whole, does not exceed the fair value of the present assets of the Company and its Restricted Subsidiaries, taken as a whole, (b) the fair salable value of the assets of the Company and the Restricted Subsidiaries, taken as a whole, is not less than the amount that will be required to pay the probable liabilities (including contingent liabilities) of the Company and its Restricted Subsidiaries, taken as a whole, on their debts as they become absolute and matured, (c) the capital of the Company and its Restricted Subsidiaries, taken as a whole, is not unreasonably small in relation to the business of the Company and its Restricted Subsidiaries, taken as a whole, as contemplated on such date of determination and (d) the Company and its Restricted Subsidiaries, taken as a whole, do not intend to incur debts (including current obligations and contingent liabilities) beyond their ability to pay such debts as they mature in the ordinary course of business. 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.

"**SPC**" has the meaning specified in Section 10.07(g).

"**Special Payment**" has the meaning given to such term in the definition of "Transactions."

"**Specified Existing Tranche**" has the meaning specified in Section 2.19(a).

"**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 Facilities**" 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 made solely by the Company and the Guarantors in Section 5.01(a) and (b)(ii) and Sections 5.02(a), 5.04, 5.13, 5.17, 5.18, 5.19 and 5.20 (in each case, after giving effect to the Transactions, and in the case of the representations and warranties made pursuant to Sections 5.19 and 5.20, to be limited to the use of proceeds not violating the Laws referenced therein).

"**Spinco Business**" has the meaning given to such term in the definition of "Transactions."

"**Spin-Off**" has the meaning given to such term in the definition of "Transactions."

"**Spin-Off Date**" has the meaning given to such term in the definition of "Transactions."

"**Standard Securitization Undertakings**" means representations, warranties, covenants, guarantees and indemnities entered into by the Company or any of its Subsidiaries which the Company has determined in good faith to be customary in a Securitization Facility or Receivables Facility, including those relating to the servicing of the assets of a Securitization Subsidiary, it being understood that any Securitization Repurchase Obligation shall be deemed to be a Standard Securitization Undertaking or, in the case of a Receivables Facility, a non-credit related recourse accounts receivable factoring arrangement.

"**Stated Maturity**" means, with respect to any security, the date specified in such security as the fixed date on which the payment of principal of such security is due and payable, including pursuant to any mandatory redemption provision, but shall not include any contingent obligations to repay, redeem or repurchase any such principal prior to the date originally scheduled for the payment thereof.

"**Statutory Reserve Rate**" means a fraction (expressed as a decimal), the numerator of which is the number one and the denominator of which is the number one minus the aggregate of the maximum reserve percentage (including any marginal, special, emergency or supplemental reserves) expressed as a decimal established by the Federal Reserve Board to which the Administrative Agent is subject with respect to the Adjusted EURIBOR Rate for eurocurrency funding (currently referred to as "Eurocurrency liabilities" in Regulation D) or any other reserve ratio or analogous requirement of any central banking or financial regulatory authority imposed in respect of the maintenance of the Commitments or the funding of the Loans. Such reserve percentage shall include those imposed pursuant to Regulation D. Term Loans shall be deemed to constitute eurocurrency funding and to be subject to such reserve requirements without benefit of or credit for proration, exemptions or offsets that may be available from time to time to any Lender under Regulation D or any comparable regulation. The Statutory Reserve Rate shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.

"**Subject Lien**" has the meaning specified in Section 7.02.

"**Subordinated Indebtedness**" means any Indebtedness (other than intercompany Indebtedness), whether outstanding on the Closing Date or thereafter incurred, which is expressly subordinated in right of payment to the Loans pursuant to a written agreement.

"**Subsidiary**" means, with respect to any Person:

(1) 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 shares of Capital Stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof 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;

(2) any partnership, joint venture, limited liability company or similar entity of which:

(a) more than 50% of the capital accounts, distribution rights, total equity and voting interests or general or 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

(b) such Person or any Subsidiary of such Person is a controlling general partner or otherwise controls such entity; or

(3) at the election of the Company, any partnership, joint venture, limited liability company or similar entity of which such Person or any Subsidiary of such Person is a controlling general partner or otherwise controls such entity.

Unless otherwise indicated in this Agreement, all references to Subsidiaries shall mean Subsidiaries of the Company.

"**Subsidiary Redesignation**" has the meaning given to such term in the definition of "Unrestricted Subsidiary."

"**Supplemental Agent**" has the meaning specified in Section 9.14(a).

"**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.

"**Swap Obligation**" means, with respect to the Company or any Subsidiary, 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.

"**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 JPMorgan Chase Bank, N.A., in its capacity as syndication agent.

"**TARGET Day**" means any day on which TARGET2 is open for the settlement of payments in Euros.

"**TARGET2**" means the Trans-European Automated Real-time Gross Settlement Express Transfer payment system which utilizes a single shared platform and which was launched on November 19, 2007 (or, if such payment system ceases to be operative, such other payment system (if any) determined by the Administrative Agent to be a suitable replacement).

"**Taxes**" means all present and future taxes, levies, imposts, deductions, charges, duties, assessments, fees and withholdings (including backup withholdings) and any other charges in the nature of a tax (including interest, penalties and other liabilities with respect thereto) that are imposed by any governmental or other taxing authority.

"**Term Borrowing**" means a borrowing of the same Type of Term Loan of a single Tranche from all Lenders having Term Commitments or Term Loans of the respective Tranche on a given date (or resulting from a continuation or conversions of such date) having, if applicable, the same Interest Period.

"**Term Commitment**" means, as to each Term Lender, (i) its Initial Term Commitment, (ii) its Term Commitment Increase, (iii) its New Term Commitment or (iv) 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 in the Assignment and Assumption, or 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 applicable, 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 any Term Loan Tranche), as the context may require.

"**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 (including, for the avoidance of doubt, the Initial Term Loans).

"**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 Initial Term Loans and Initial Term Commitments). Additional Term Loan Tranches may be added after the Closing Date pursuant to the terms hereof (*e.g.*, New Term Loans, Specified Refinancing Term Loans, New Term Commitments, Extended Term Loans and Specified Refinancing Term Commitments).

"**Term Note**" means, as applicable, any Term Notes and any other promissory note of a Borrower payable to any Term Lender or its registered assigns, in substantially the form of Exhibit B-1, evidencing the indebtedness of such 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**" means,

(a) for any calculation with respect to a SOFR Loan, the Term SOFR Reference Rate for a tenor comparable to the applicable Interest Period on the day (such day, the "**Periodic Term SOFR Determination Day**") that is two (2) U.S. Government Securities Business Days prior to the first day of such Interest Period, as such rate is published by the Term SOFR Administrator; *provided*, *however*, that if as of 5:00 p.m. (New York City time) on any Periodic Term SOFR Determination Day, the Term SOFR Reference Rate for the applicable tenor has not been published by the Term SOFR Administrator and a Benchmark Replacement Date with respect to the Term SOFR Reference Rate has not occurred, then Term SOFR will be the Term SOFR Reference Rate for such tenor as published by the Term SOFR Administrator on the first preceding U.S. Government Securities Business Day for which such Term SOFR Reference Rate for such tenor was published by the Term SOFR Administrator so long as such first preceding U.S. Government Securities Business Day is not more than three (3) U.S. Government Securities Business Days prior to such Periodic Term SOFR Determination Day,

(b) for any calculation with respect to an ABR Loan on any day, the Term SOFR Reference Rate for a tenor of one month on the day (such day, the "**ABR Term SOFR Determination Day**") that is two (2) U.S. Government Securities Business Days prior to such day, as such rate is published by the Term SOFR Administrator; *provided*, *however*, that if as of 5:00 p.m. (New York City time) on any ABR Term SOFR Determination Day, the Term SOFR Reference Rate for the applicable tenor has not been published by the Term SOFR Administrator and a Benchmark Replacement Date with respect to the Term SOFR Reference Rate has not occurred, then Term SOFR will be the Term SOFR Reference Rate for such tenor as published by the Term SOFR Administrator on the first preceding U.S. Government Securities Business Day for which such Term SOFR Reference Rate for such tenor was published by the Term SOFR Administrator so long as such first preceding U.S. Government Securities Business Day is not more than three (3) U.S. Government Securities Business Days prior to such ABR Term SOFR Determination Day, and

(c) in each case of clause (a) or (b) above, plus 0.00%;

provided, *further*, that if Term SOFR determined as provided above (including pursuant to the proviso under clause (a) or clause (b) above) shall ever be less than the Floor, then Term SOFR shall be deemed to be the Floor.

"**Term SOFR Administrator**" means CME Group Benchmark Administration Limited (CBA) (or a successor administrator of the Term SOFR Reference Rate selected by the Administrative Agent in its reasonable discretion).

"**Term SOFR Reference Rate**" means the forward-looking term rate based on SOFR.

"**Test Period**" means the most recent period of four consecutive fiscal quarters of the Restricted Group 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 the Company).

"**Thompson Reuters**" means, as applicable, Thomson Reuters Corp., Refinitiv, or any successor thereto.

"**Threshold Amount**" means the greater of (x) $125,000,000 and (y) 25.0% of LTM EBITDA.

"**Total Assets**" means, as of any date, the total consolidated assets of the Company and its Restricted Subsidiaries on a consolidated basis, as shown on the most recent consolidated balance sheet of the Company and its Restricted Subsidiaries, determined on a pro forma basis in a manner consistent with Section 1.10.

"**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 Costs**" has the meaning given to such term in the definition of "Transactions."

"**Transaction Documents**" means that certain the Separation and Distribution Agreement by and between BD and Embecta Corp., expected to be dated as of the Spin-Off Date, and any other agreements entered into by the Company in connection with the Transactions.

"**Transactions**" means,

(i) internal reorganization transactions undertaken by BD, the Company and their respective subsidiaries as a result of which the Company will hold, directly or through its subsidiaries, the business, operations and activities of the diabetes care unit of BD as conducted as of immediately prior to the Spin-Off Date, which includes the manufacturing and sale of syringes, pen needles and other products related to the injection or infusion of insulin and other drugs used in the treatment of diabetes (the "**Spinco Business**");

(ii) the Company (a) (1) obtaining the initial Facilities consisting of the initial Revolving Credit Facility and the initial Term Facility and (2) issuing the Senior Secured Notes and (b) (1) using the proceeds of the initial fundings thereunder to fund a special payment to BD (the "**Special Payment**") and (2) at the Company's option, issuing additional Senior Secured Notes to BD;

(iii) the distribution on a pro rata basis to equityholders of BD of all the shares of equity interests of the Company (with cash in lieu of fractional shares) (the consummation of the foregoing, the "**Spin-Off**", and the date of such consummation of the Spin-Off, the "**Spin-Off Date**");

(iv) the execution and performance of the agreements (along with schedules and exhibits thereto) relating to the foregoing;

(v) each of the transactions ancillary to the foregoing, including any distributions or other transfers of cash and/or other property or liabilities by BD or its Subsidiaries to the Company or its Subsidiaries, and vice versa; and

(vi) the payment of fees, costs and expenses related to the foregoing (the "**Transaction Costs**").

"**Treasury Capital Stock**" has the meaning specified in Section 7.05(b)(2).

"**Type**" means, with respect to a Loan, its character as an ABR Loan, SOFR Loan or Eurocurrency Rate Loan.

"**UCP**" means the Uniform Customs and Practice for Documentary Credits, International Chamber of Commerce Publication No. 600 (or such later version thereof as may be in effect at the applicable time).

"**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 applicable Benchmark Replacement excluding the related Benchmark Replacement Adjustment.

"**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 applicable Borrower 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 applicable Borrower 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(d).

"**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 or the Uniform Commercial Code (or similar code or statute) of another jurisdiction, to the extent it may be required to apply to any item or items of Collateral.

"**United States**" and "**U.S.**" mean the United States of America.

"**Unreimbursed Amount**" has the meaning specified in Section 2.03(d)(i).

"**Unrestricted Cash and Cash Equivalents**" means cash or Cash Equivalents included on the consolidated balance sheet of the Company and its Restricted Subsidiaries as of the end of the most recent fiscal period for which consolidated financial statements are available (which may, at the Company's election, be internal financial statements) that (1) would not appear as "restricted" on the consolidated balance sheet of the Company and its Restricted Subsidiaries or (2) are restricted in favor of the Facilities (which may also secure other Indebtedness secured by a *pari passu* or junior Lien basis with the Facilities).

"**Unrestricted Subsidiary**" means:

(1) any Subsidiary of the Company that at the time of determination is an Unrestricted Subsidiary (as designated by the Company in the manner provided below); and

(2) any Subsidiary of an Unrestricted Subsidiary.

The Company may designate any Subsidiary of the Company (other than any Borrower or any Subsidiary that directly or indirectly owns Capital Stock of a Borrower), (including any newly acquired or newly formed Subsidiary or a Person becoming a Subsidiary through merger, consolidation or other business combination transaction, or Investment therein), to be an Unrestricted Subsidiary only if:

(1) at the time of such designation, such Subsidiary or any of its Subsidiaries does not own any Capital Stock of the Company or any other Subsidiary of the Company which is not a Subsidiary of the Subsidiary to be so designated or otherwise an Unrestricted Subsidiary;

(2) such designation and the Investment, if any, of the Company in such Subsidiary complies with Section 7.05; and

(3) such designation would not cause an Event of Default pursuant to Section 8.01(a), (f) or (g).

If a Restricted Subsidiary is designated as an Unrestricted Subsidiary, the aggregate fair market value of all outstanding Investments owned by the Company and its Restricted Subsidiaries in the Subsidiary designated as an Unrestricted Subsidiary will be deemed to be an Investment made as of the time of the designation and will reduce the amount available for Restricted Payments pursuant to Section 7.05 or under one or more clauses of the definition of Permitted Investments, as determined by the Company. That designation will only be permitted if the Investment would be permitted at that time and if the Restricted Subsidiary otherwise meets the definition of an Unrestricted Subsidiary. The Company may redesignate any Unrestricted Subsidiary to be a Restricted Subsidiary if that redesignation would not cause an Event of Default (such redesignation, a "**Subsidiary Redesignation**").

Any designation of a Subsidiary of the Company as an Unrestricted Subsidiary will be evidenced to the Administrative Agent by delivering to the Administrative Agent a certificate of a Responsible Officer certifying that such designation complies with the preceding conditions and was not prohibited by Section 7.05. If, at any time, any Unrestricted Subsidiary would fail to meet the preceding requirements as an Unrestricted Subsidiary, it will thereafter cease to be an Unrestricted Subsidiary for purposes of this Agreement and any Indebtedness and Liens of such Subsidiary will be deemed to be incurred by a Restricted Subsidiary as of such date and, if such Indebtedness or Liens are not permitted to be incurred as of such date under Section 7.01, the Company will be in default of such covenant.

The Company may at any time designate any Unrestricted Subsidiary to be a Restricted Subsidiary; *provided* that such designation will be deemed to be an incurrence of Indebtedness and Liens by a Restricted Subsidiary of any outstanding Indebtedness and Liens of such Unrestricted Subsidiary, and such designation will only be permitted if (1) such Indebtedness is permitted under Section 7.01 (including pursuant to clause (5) of the second paragraph thereof treating such redesignation as an acquisition for the purpose of such clause), calculated on a pro forma basis as if such designation had occurred at the beginning of the applicable reference period; and (2) no Event of Default pursuant to Section 8.01(a), (f) or (g) would be in existence following such designation. Any such designation by the Company shall be evidenced to the Administrative Agent by delivering to the Administrative Agent a certificate of a Responsible Officer certifying that such designation complies with the preceding conditions.

Notwithstanding anything else herein to the contrary, the Company shall not, and shall not permit any of its Restricted Subsidiaries to, sell, convey, transfer or otherwise dispose of (including pursuant to an Investment) any Material Intellectual Property that is owned by, or exclusively licensed to, the Company or any Restricted Subsidiary to any Unrestricted Subsidiary.

"**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. Person**" means any Person that is a "United States person" as defined in Section 7701(a)(30) of the Code.

"**U.S. Subsidiary**" means any Subsidiary of the Company that is organized under the laws of the United States, any state thereof or the District of Columbia.

"**U.S. Tax Compliance Certificate**" has the meaning assigned to such term in Section 3.01(h)(ii)(B)(3).

"**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. When referring to a CFC or FSHCO, the term Voting Stock shall be interpreted in a manner consistent with Treasury Regulation 1.956-2(c)(2).

"**Weighted Average Life to Maturity**" means, when applied to any Indebtedness at any date, the quotient (in number of years) obtained by dividing:

(1) the sum of the products obtained by multiplying (i) the number of years (calculated to the nearest one-twelfth) from the date of determination to the date of each successive scheduled principal payment of such Indebtedness or redemption or similar payment with respect to such Disqualified Stock or Preferred Stock, by (ii) the amount of such payment, by

(2) the sum of all such payments;

provided that, for purposes of determining the Weighted Average Life to Maturity of any Indebtedness, the effects of any prepayments or amortization made on such Indebtedness prior to the date of such determination will be disregarded.

"**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 100.0% 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. Unless otherwise indicated in this Agreement, all references to Wholly Owned Subsidiaries shall mean Wholly Owned Subsidiaries of the Company.

"**Withholding Agent**" means any Loan Party and the Administrative Agent or any other withholding agent under applicable Law.

"**Working Capital**" means, with respect to the Restricted Group 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.

"**Yen**" means freely transferable lawful money of Japan (expressed in Yen).

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 "including," "include" and "includes" are by way of example and 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) When calculating the availability under any basket or ratio under this Agreement or compliance with any provision of this Agreement which requires the calculation of a basket or ratio in connection with any Limited Condition Transaction and any actions or transactions related thereto (including acquisitions, Investments, the incurrence, issuance or assumption of Indebtedness and the use of proceeds thereof, the incurrence or creation of Liens, repayments, Restricted Payments and Asset Dispositions), in each case, at the option of the Company (the Company's election to exercise such option, an "**LCT Election**"), the date of determination for availability under any such basket or ratio and whether any such action or transaction is permitted (or any requirement or condition therefor is complied with or satisfied (including as to the absence of any continuing Default or Event of Default (other than in connection with any L/C Credit Extension or any Revolving Credit Borrowing with respect to the Revolving Credit Commitments that exist on the Closing Date))) or whether any representations and warranties (or any specified representations and warranties) are true and correct (other than in connection with any L/C Credit Extension or any Revolving Credit Borrowing with respect to Revolving Credit Commitments that exist on the Closing Date) under this Agreement shall be deemed to be the date (the "**LCT Test Date**") either (a) the definitive agreement (or other relevant definitive documentation) for such Limited Condition Transaction is entered into (or, if applicable, the date of delivery of an irrevocable declaration of a Restricted Payment or similar event or the date of any notice, which may be conditional, of such a repayment, repurchase or refinancing of Indebtedness is given to the holders of such Indebtedness), or (b) solely in

connection with an acquisition to which the United Kingdom City Code on Takeovers and Mergers applies, the date on which a "Rule 2.7 announcement" of a firm intention to make an offer (or equivalent announcement in another jurisdiction) (an "**LCT Public Offer**") in respect of a target of a Limited Condition Transaction and, in each case, if, after giving pro forma effect to the Limited Condition Transaction and any actions or transactions related thereto (including acquisitions, Investments, the incurrence, issuance or assumption of Indebtedness and the use of proceeds thereof, the incurrence or creation of Liens, repayments, Restricted Payments and Asset Dispositions) and any related pro forma adjustments as if they had occurred at the beginning of the most recent Test Period ended prior to the LCT Test Date, the Company or any of its Restricted Subsidiaries would have been permitted to take such actions or consummate such transactions on the relevant LCT Test Date in compliance with such ratio, test or basket (and any related requirements and conditions), such ratio, test or basket (and any related requirements and conditions) shall be deemed to have been complied with (or satisfied) for all purposes (in the case of Indebtedness, for example, whether such Indebtedness is committed, issued, assumed or incurred at the LCT Test Date or at any time thereafter); *provided*, that (a) if financial statements for one or more subsequent fiscal quarters shall have become available, the Company may elect, in its sole discretion, to redetermine all such ratios, tests or baskets on the basis of such financial statements, in which case, such date of redetermination shall thereafter be the applicable LCT Test Date for purposes of such ratios, tests or baskets, (b) except as contemplated in the foregoing clause (a), compliance with such ratios, test or baskets (and any related requirements and conditions) shall not be determined or tested at any time after the applicable LCT Test Date for such Limited Condition Transaction and any actions or transaction related thereto (including acquisitions, Investments, the incurrence, issuance or assumption of Indebtedness and the use of proceeds thereof, the incurrence or creation of Liens, repayments, Restricted Payments and Asset Dispositions) and (c) Consolidated Cash Interest Expense will be calculated using an assumed interest rate as reasonably determined by the Company.

For the avoidance of doubt, if the Company has made an LCT Election:

(1) if any of the ratios, tests or baskets for which compliance was determined or tested as of the LCT Test Date would at any time after the LCT Test Date have been exceeded or otherwise failed to have been complied with as a result of fluctuations in any such ratio, test or basket, including due to fluctuations in EBITDA or Total Assets of the Company or the Person subject to such Limited Condition Transaction, such baskets, tests or ratios will not be deemed to have been exceeded or failed to have been complied with as a result of such fluctuations;

(2) any change to the applicable exchange rate utilized in calculating compliance with any Dollar-based provision of this Agreement, at any time from and after the LCT Test Date to the date of consummation of such Investment, acquisition or repayment, repurchase or refinancing of Indebtedness, will not be taken into account for purposes of determining (x) whether any Indebtedness or Lien that is being incurred in connection with such Investment, acquisition or repayment, repurchase or refinancing of Indebtedness is permitted, or (y) compliance by any Restricted Group Member with any other provision of the Loan Documents;

(3) if any related requirements and conditions (including as to the absence of any continuing Default or Event of Default) for which compliance or satisfaction was determined or tested as of the LCT Test Date would at any time after the LCT Test Date not have been complied with or satisfied (including due to the occurrence or continuation of a Default or an Event of Default), such requirements and conditions will not be deemed to have been failed to be complied with or satisfied (and such Default or Event of Default shall be deemed not to have occurred or be continuing);

(4) for purposes of determining whether the bring down of representations and warranties (or specified representations and warranties) in connection with any such Investment, acquisition or repayment, repurchase or refinancing of Indebtedness, 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 on the LCT Test Date; and

(5) in calculating the availability under any ratio, test or basket in connection with any action or transaction unrelated to such Limited Condition Transaction following the relevant LCT Test Date and prior to the earlier of the date on which such Limited Condition Transaction is consummated or the date that the definitive agreement or date for redemption, purchase or repayment specified in an irrevocable notice for such Limited Condition Transaction is terminated, expires or passes (or, if applicable, the irrevocable notice is terminated, expires or passes or, as applicable, the offer in respect of an LCT Public Offer for, such acquisition is terminated), as applicable, without consummation of such Limited Condition Transaction, any such ratio, test or basket shall be determined or tested giving pro forma effect to such Limited Condition Transaction.

(j) 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.

(k) Any transaction or event shall be considered "permitted by" or made "in accordance with" or "in compliance with" this Agreement or any particular provision hereof if such transaction or event is not expressly prohibited by this Agreement or such provision, as the case may be.

(l) Notwithstanding anything to the contrary herein, in the event an item of Indebtedness (or any portion thereof) is incurred or issued, any Lien is incurred or other transaction is undertaken in reliance on any ratio based exceptions, thresholds and baskets, such ratio(s) shall be calculated with respect to such incurrence, issuance or other transaction without giving effect to amounts being utilized under any other exceptions, thresholds or baskets (other than ratio based baskets) on the same date. Each item of Indebtedness that is incurred or issued, each Lien incurred and each other transaction undertaken will be deemed to have been incurred, issued or taken first, to the extent available, pursuant to the relevant ratio based test.

(m) Notwithstanding anything to the contrary herein, in the event an item of Indebtedness (or any portion thereof) is incurred or issued, any Lien is incurred or other transaction is undertaken in reliance on any ratio based exceptions, thresholds and baskets, such ratio(s) shall be calculated without regard to the incurrence of any Indebtedness under any revolving facility or letter of credit facility (1) immediately prior to or in connection therewith or (2) used to finance working capital needs of the Company and its Restricted Subsidiaries; *provided* that the aggregate principal amount of Indebtedness that may be excluded pursuant to this clause (2) shall not exceed $50,000,000.

Section 1.03 Accounting Term.

(a) All financial statements and all financial data required to be submitted pursuant to this Agreement shall be prepared in conformity with GAAP, as in effect from time to time, and all terms of an accounting or financial nature shall be construed and interpreted in accordance with GAAP, as in effect on the date hereof.

(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 Company or the Required Lenders shall so request, the Administrative Agent and the Company 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, such consent 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 Company); *provided* that, until so amended, (i) 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 or (ii) the Company 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 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. Under this Agreement, any financial ratios required to be maintained or satisfied in order for a specific action to be permitted 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 performance shall extend to the immediately succeeding Business Day.

Section 1.08 Currency Equivalents Generally.

(a) Any amount specified in this Agreement (other than in Articles II, IX and X or as set forth in clause (b) of this Section 1.08) or any of the other Loan Documents to be in Dollars shall also include the equivalent of such amount in any currency other than Dollars, such equivalent amount (the "**Agent's Spot Rate of Exchange**") to be determined at the rate of exchange for the purchase of Dollars with the Alternative Currency or other currency in the London foreign exchange market at or about 11:00 a.m. London time (or New York City time, as applicable) on a particular day as displayed by ICE Data Services as the "ask price" or as displayed on such other information service which publishes that rate of exchange from time to time in place of ICE Data Services (or if such service ceases to be available, the equivalent of such amount in Dollars as determined by reference to such other publicly available service for displaying exchange rates as may be agreed upon by the Administrative Agent and the Company, or, in the absence of such agreement, such rate shall instead be the arithmetic average of the spot rates of exchange

of the Administrative Agent in the market where its foreign currency exchange operations in respect of such currency are then being conducted, at or about 10:00 a.m. (New York City time) on such date for the purchase of Dollars for delivery two Business Days later); *provided* that if any basket is exceeded solely as a result of fluctuations in applicable currency exchange rates after the last time such basket was utilized, such basket will not be deemed to have been exceeded solely as a result of such fluctuations in currency exchange rates.

(b) For purposes of determining the Consolidated First Lien Net Leverage Ratio, the Consolidated Interest Coverage Ratio, the Consolidated Senior Secured Net Leverage Ratio and the Consolidated Total Net Leverage Ratio, amounts of Indebtedness denominated in a currency other than Dollars will be converted to Dollars (i) for the purposes of testing the Financial Covenant, at the exchange rate consistent with that used to calculate consolidated net income in the most recent financial statements of the Company upon which such calculations were based and (ii) for any other purpose, at the exchange rate as of the date of determination; *provided* that, at the option of the Company, if any Restricted Group Member has entered into any currency Swap Contracts in respect of any borrowings, the Dollar Amount of such borrowings shall be determined by first taking into account the effects of that currency Swap Contract.

(c) The Administrative Agent shall (x) determine the Dollar Amount of each Revolving Credit Loan denominated in an Alternative Currency and L/C Obligation in respect of Letters of Credit denominated in an Alternative Currency (i) for Revolving Credit Loans, as of the first day of each Interest Period applicable thereto and (ii) for Letters of Credit, in accordance with clause (c) of the definition of "Dollar Amount" and (y) on a semi-annual basis, promptly notify the Company and the Revolving Credit Lenders of each Dollar Amount so determined by it. Each such determination shall be based on the Exchange Rate on the date of the related Committed Loan Notice for purposes of the initial such determination for any Revolving Credit Loan.

(d) Notwithstanding anything to the contrary in this Agreement, (i) any representation or warranty that would be untrue or inaccurate, (ii) any undertaking that would be breached or (iii) any event that would constitute a Default or an Event of Default, in each case, solely as a result of fluctuations in applicable currency exchange rates, shall not be deemed to be untrue, inaccurate, breached or so constituted, as applicable, solely as a result of such fluctuations in currency exchange rates.

(e) Wherever in this Agreement in connection with a Revolving Credit Borrowing or the issuance, amendment or extension of a Letter of Credit, an amount, such as a required minimum or multiple amount, is expressed in Dollars, but such Revolving Credit Borrowing or Letter of Credit is denominated in an Alternative Currency such amount shall be the relevant Dollar Amount of such Alternative Currency (rounded to the nearest unit of such Alternative Currency, with 0.5 of a unit being rounded upward), as determined by the Administrative Agent or the L/C Issuer, as applicable.

(f) The Administrative Agent does not warrant or accept responsibility for, and shall not have any liability with respect to (a) the continuation of, administration of, submission of, calculation of or any other matter related to ABR, the Term SOFR Reference Rate, Term SOFR, the Adjusted Eurocurrency Rate or the Eurocurrency Rate, or any component definition thereof or rates referred to in the definition thereof, or any alternative, successor or replacement rate thereto (including any Benchmark Replacement), including whether the composition or characteristics of any such alternative, successor or replacement rate (including any Benchmark Replacement) will be similar to, or produce the same value or economic equivalence of, or have the same volume or liquidity as, ABR, the Term SOFR Reference Rate, Term SOFR, the Adjusted Eurocurrency Rate or the Eurocurrency Rate or any other Benchmark prior to its discontinuance or unavailability, or (b) the effect, implementation or composition of any Conforming Changes. The Administrative Agent and its affiliates or other related entities may engage in transactions that affect the calculation of ABR, the Term SOFR Reference Rate, Term SOFR, the Adjusted

Eurocurrency Rate or the Eurocurrency Rate, any alternative, successor or replacement rate (including any Benchmark Replacement) or any relevant adjustments thereto, in each case, in a manner adverse to the Borrower. The Administrative Agent may select information sources or services in its reasonable discretion to ascertain ABR, the Term SOFR Reference Rate, Term SOFR, the Adjusted Eurocurrency Rate or the Eurocurrency Rate or any other Benchmark, 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.

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 Dollar Amount available to be drawn under such Letter of Credit during the remaining life of such Letter of Credit; *provided*, *however*, that 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.

Section 1.10 Pro Forma Calculations. (a) For any events described below that occur subsequent to the commencement of a period for which the financial effect of such events is being calculated, and giving effect to the events for which such calculation is being made, such calculation will give pro forma effect to such events as if such events occurred on the first day of the most recent Test Period ended on or before the occurrence of such event (the "**Reference Period**"):

(i) the incurrence, assumption, guarantee, redemption, defeasance, retirement or extinguishment of any Indebtedness (other than Indebtedness incurred under any revolving credit facility unless such Indebtedness has been permanently repaid and has not been replaced), the incurrence of any Reserved Indebtedness Amount and/or the issuance, repurchase or redemption of Disqualified Stock or Preferred Stock;

(ii) the making of any Investments, acquisitions, dispositions, Asset Disposition, mergers, amalgamations, consolidations, operational changes, business expansions and disposed or discontinued operations; *provided* that for the avoidance of doubt, at the Company's option, notwithstanding any classification under GAAP of any Person, property, business or asset as discontinued operations, no pro forma effect shall be given to any discontinued operations (and the income or loss attributable to such Person, property, business or asset shall not be excluded for any purposes hereunder) until such disposition shall have been consummated;

(iii) operational changes or restructurings of the business of the Company or any of its Subsidiaries that the Company or such Subsidiary, as applicable, has determined to make and/or made during or subsequent to such Reference Period which are expected to have a continuing impact and are factually supportable, which would include cost savings resulting from head count reduction, closure of facilities and other operational changes and other cost savings in connection therewith; and

(iv) the designation of any Restricted Subsidiary as an Unrestricted Subsidiary or the designation of any Unrestricted Subsidiary as a Restricted Subsidiary.

(b) For purposes of this Section 1.10, whenever pro forma effect is to be given to a transaction (including the Transactions), the pro forma calculations shall be made in good faith by a Responsible Officer of the Company (and may include, for the avoidance of doubt, cost savings, operating expense reductions and synergies resulting from such transactions which is being given pro forma effect;

provided, that the aggregate amount of cost savings, operating expense reductions and synergies added to Consolidated EBITDA pursuant to this Section 1.10 (combined with the aggregate amount of cost savings, operating expense reductions and synergies added to Consolidated EBITDA pursuant to clause (1)(g) of the definition of Consolidated EBITDA) shall not exceed 25% of Consolidated EBITDA for any four fiscal quarter period (determined after giving effect thereto and all other adjustments and addbacks); *provided*, *further*, that in each case of this clause (b) and clause (1)(g) of the definition of Consolidated EBITDA, such 25% cap shall not apply to any such adjustments that (A) are of the type that would be permitted to be included in pro forma financial statements prepared in accordance with Regulation S-X under the Securities Act or (B) are otherwise in connection with or related to the Transactions). 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 on which the relevant calculation is being made had been the applicable rate for the entire reference period (taking into account any Swap Obligations applicable to such Indebtedness). Interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by a Responsible Officer of the Company to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP. For purposes of making the computation referred to above, interest on any Indebtedness under a revolving credit facility computed with a pro forma basis shall be computed based upon the average daily balance of such Indebtedness during the Reference Period, except to the extent the outstanding Indebtedness thereunder is reasonably expected to increase as a result of any transactions as set forth in clause (a)(i) of this Section 1.10. Interest on Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a SOFR-based rate, a eurocurrency interbank offered rate, or other rate, shall be determined to have been based upon the rate actually chosen, or if none, then based upon such optional rate chosen as the Company may designate.

(c) Notwithstanding the foregoing, when calculating the Consolidated First Lien Net Leverage Ratio for purposes of (i) determining the applicable percentage of Excess Cash Flow for purposes of Section 2.05(b) and (ii) determining actual compliance (and not pro forma compliance or compliance on a pro forma basis) with the Financial Covenant, any transaction and any related pro forma adjustment contemplated in this Section 1.10 (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 LTM EBITDA and/or 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 Calculation of Ratios. For all purposes under this Agreement, including for purposes of calculating the Consolidated First Lien Net Leverage Ratio, the Consolidated Senior Secured Net Leverage Ratio, the Consolidated Total Net Leverage Ratio or the Consolidated Interest Coverage Ratio, as applicable, in connection with the incurrence, issuance or assumption of any Indebtedness or the incurrence or creation of any Lien pursuant to the definition of "Permitted Liens," the Company may elect, at its option, to treat all or any portion of the committed amount of any Indebtedness (and the issuance and creation of letters of credit and bankers' acceptances thereunder) which is to be incurred (or any commitment in respect thereof) or secured by such Lien, as applicable (any such committed amount elected until revoked as described below, the "**Reserved Indebtedness Amount**"), as being incurred as of such election date, and, if such Consolidated First Lien Net Leverage Ratio, Consolidated Senior Secured Net Leverage Ratio, Consolidated Total Net Leverage Ratio, Consolidated Interest Coverage Ratio or other provision of this Agreement, as applicable, is complied with (or satisfied) with respect thereto on such election date, any subsequent borrowing or reborrowing thereunder (and the issuance and creation of letters of credit and bankers' acceptances thereunder) will be deemed to be permitted under this Agreement, whether or not the Consolidated First Lien Net Leverage Ratio, Consolidated Senior Secured Net Leverage Ratio, Consolidated Total Net Leverage Ratio, Consolidated Interest Coverage Ratio or other provision of

this Agreement, as applicable, at the actual time of any subsequent borrowing or reborrowing (or issuance or creation of letters of credit or bankers' acceptances thereunder) is complied with (or satisfied) for all purposes (including as to the absence of any continuing Default or Event of Default); *provided* that for purposes of subsequent calculations of the Consolidated First Lien Net Leverage Ratio, the Consolidated Senior Secured Net Leverage Ratio, the Consolidated Total Net Leverage Ratio or the Consolidated Interest Coverage Ratio or such other provision of this Agreement, as applicable, the Reserved Indebtedness Amount shall be deemed to be outstanding, whether or not such amount is actually outstanding, for so long as such commitments are outstanding or until the Company revokes an election of a Reserved Indebtedness Amount.

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 Initial Term Lender severally agrees to make to the Company a single loan denominated in Dollars (the "**Initial Term Loans**") on the Closing Date in an amount not to exceed such Initial Term Lender's Initial Term Commitment. The Initial Term Borrowing shall consist of Initial Term Loans made simultaneously by the Initial 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 ABR Loans or SOFR 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 Revolving Credit Loans denominated in Dollars or in one or more Alternative Currencies to the Borrowers from time to time on a revolving basis on and 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 Initial Revolving Credit Commitment; *provided*, *however*, that after giving effect to any Revolving Credit Borrowing, (x) the Total Revolving Credit Outstandings shall not exceed the aggregate amount of Initial Revolving Credit Commitments and (y) the aggregate Pro Rata Share of the 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 the aggregate amount of such Lender's Initial Revolving Credit Commitment. Within the limits of each Lender's Revolving Credit Commitment, and subject to the other terms and conditions hereof, the Borrower may borrow under this Section 2.01(b), prepay under Section 2.05, and reborrow under this Section 2.01(b). Revolving Credit Loans may be (i) ABR Loans or SOFR Loans (in the case of Revolving Credit Loans denominated in Dollars) or (ii) Eurocurrency Rate Loans (in the case of Revolving Credit Loans denominated in Euros or another Alternative Currency), in each case as further provided herein. 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 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) pursuant to any Term Commitment Increase, New Term Commitment or Specified Refinancing Term Commitment, as applicable, severally agrees to make a Term Loan under such Tranche to the applicable Borrower of such Tranche as set forth 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 applicable.

(d) After the Closing Date, subject to the terms and conditions set forth herein, each Revolving Credit Lender with a Revolving Credit Commitment pursuant to any Revolving Credit Commitment Increase, New Revolving Commitment or Specified Refinancing Revolving Credit Commitment, as applicable, severally agrees to make Revolving Credit Loans to the applicable Borrower as set forth in the amendment or agreement relating to the respective Revolving Credit Commitment Increase, New Revolving Commitment or Specified Refinancing Revolving Credit Commitment pursuant to which such Lender shall have assumed its Revolving Credit Commitment, as applicable.

Section 2.02 Borrowings, Conversions and Continuations of Loans.

(a) Each Term Borrowing, each Revolving Credit Borrowing, each conversion of Term Loans or Revolving Credit Loans from one Type to another, and each continuation of SOFR Loans or Eurocurrency Rate Loans, shall be made upon irrevocable notice by the applicable Borrower to the Administrative Agent. Each such notice must be in writing and must be received by the Administrative Agent not later than (i) 12:00 p.m. (New York City time) three Business Days prior to the requested date of any Borrowing of, conversion of ABR Loans to, or continuation of (as applicable), SOFR Loans or Eurocurrency Rate Loans and (ii) 11:00 a.m. (New York City time) on the requested date of any Borrowing of ABR Loans or of any conversion of SOFR Loans to ABR Loans. 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, appropriately completed and signed by a Responsible Officer of the applicable Borrower.

Each Borrowing of, conversion to or continuation of SOFR Loans or Eurocurrency Rate Loans shall be (i) in a principal amount of $1,000,000 (or the equivalent Dollar Amount), or (ii) a whole multiple of $100,000 (or the equivalent Dollar Amount) in excess thereof. Except as provided in Section 2.03(d), each Borrowing of, or conversion to, ABR Loans shall be (i) in a principal amount of $1,000,000 (or the equivalent Dollar Amount) or (ii) a whole multiple of $100,000 (or the equivalent Dollar Amount) in excess thereof.

Each Committed Loan Notice shall specify (i) the identity of the applicable Borrower requesting a Credit Extension, (ii) whether such Borrower is requesting a Term Borrowing, a Revolving Credit Borrowing, a conversion of a Tranche of Term Loans or Revolving Credit Loans from one Type to another, or a continuation of SOFR Loans or Eurocurrency Rate Loans, (iii) the requested date of the Borrowing, conversion or continuation, as applicable (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 or Revolving Credit Loans are to be converted, (vi) if applicable, the duration of the Interest Period with respect thereto and (vii) the currency in which the Revolving Credit Loans to be borrowed are to be denominated (which shall be Dollars or an Alternative Currency). If, with respect to any SOFR Loans or Eurocurrency Rate Loans, the applicable Borrower fails to specify a Type of Loan in a Committed Loan Notice or if the applicable Borrower fails to give a timely notice requesting a conversion or continuation, then the applicable Tranche of Term Loans or Revolving Credit Loans shall be made as, or converted to, SOFR Loans or Eurocurrency Rate Loans with an Interest Period of one month. 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 SOFR Loans or Eurocurrency Rate Loans. If the applicable Borrower requests a Borrowing of, conversion to, or continuation of SOFR Loans or Eurocurrency Rate 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 month.

(b) Following receipt of a Committed Loan Notice, the Administrative Agent shall promptly notify each applicable Lender of the amount of its Pro Rata Share of the applicable Tranche of Term Loans or Revolving Credit Loans, and if no timely notice of a conversion or continuation of SOFR Loans or Eurocurrency Rate Loan is provided by the applicable Borrower, the Administrative Agent shall notify each Lender of the details of any automatic conversion to SOFR Loans or Eurocurrency Rate Loans, as applicable, with an Interest Period of one 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 3:00 p.m. (New York City time) in the case of Loans denominated in Dollars, and not later than the applicable time specified by the Administrative Agent in the case of any Revolving Credit Loan denominated in an Alternative Currency, in each case, on the Business Day specified in the applicable Committed Loan Notice. Each Lender may, at its option, make any Loan available to 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 applicable Borrower 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 applicable Borrower in like funds as received by the Administrative Agent either by (i) crediting the account of 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 applicable Borrower; *provided*, *however*, that if, on the date the Committed Loan Notice with respect to such Borrowing is given by the applicable Borrower, 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 applicable Borrower as provided above.

(c) Except as otherwise provided herein, a SOFR Loan or Eurocurrency Rate Loan may be continued or converted only on the last day of an Interest Period for such SOFR Loan or Eurocurrency Rate Loan unless the applicable Borrower pays 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 SOFR Loan or Eurocurrency Rate Loans.

(d) The Administrative Agent shall promptly notify the applicable Borrower and the Lenders of the interest rate applicable to any Interest Period for SOFR Loans or Eurocurrency Rate Loans upon determination of such interest rate. The determination of Term SOFR or the Adjusted Eurocurrency Rate 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 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 Sublimit Expiration Date, to issue Letters of Credit denominated in Dollars or an Alternative Currency (*provided* that no L/C Issuer shall be required to issue Letters of Credit hereunder other than standby Letters of Credit denominated in Dollars) for the account of any Restricted Group Member (*provided* that each Borrower hereby irrevocably agrees to reimburse the applicable L/C Issuer for amounts drawn on any Letters of Credit issued for the account of any Restricted Group Member on a joint and several basis with such Restricted Subsidiary and shall be a co-applicant for each such Letter of Credit issued for the account of a Restricted Subsidiary, but in no event shall any Excluded Subsidiary be responsible for any amounts drawn on any Letters of Credit issued for the account of a Borrower or any other Subsidiary) and to amend or extend Letters of Credit previously issued by it, in accordance with Section 2.03(c), and (2) to honor drawings under the Letters of Credit; and

(B) the Revolving Credit Lenders severally agree to participate in Letters of Credit issued for the account of any Restricted Group Member; *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 (w) the Total Revolving Credit Outstandings in respect of any Revolving Tranche would exceed such Revolving Tranche, (x) the Total Revolving Credit Outstandings would exceed the Revolving Credit Facility, (y) the aggregate Pro Rata Share of the 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 Initial Revolving Credit Commitment or (z) the Outstanding Amount of the L/C Obligations would exceed the Letter of Credit Sublimit; *provided*, *further*, that no L/C Issuer identified on Schedule 1.01(f) 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(f). Within the foregoing limits, and subject to the terms and conditions hereof, the Borrower's ability to obtain Letters of Credit shall be fully revolving, and accordingly the Borrower 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 or an Alternative Currency; *provided* that each L/C Issuer's obligation to issue Letters of Credit in any Alternative Currency shall be subject to the currency limitations set forth on Schedule 1.01(f).

(ii) No L/C Issuer shall be under any obligation to issue any Letter of Credit (and, in the case of clauses (B) and (C) below unless the applicable requisite consents specified therein have been obtained, no L/C Issuer shall issue any Letter of Credit) if:

(A) any order, judgment or decree of any Governmental Authority or arbitrator 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 after the earlier of (x) five 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) and (y) more than 12 months after the date of issuance, unless the applicable L/C Issuer, in its sole discretion, has approved such expiry date.

(C) the expiry date of such requested Letter of Credit would occur after the Letter of Credit Sublimit 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;

(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 amount of less than $5,000 (or the equivalent Dollar Amount) 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 or an Alternative Currency;

(G) the proceeds of such Letter of Credit would be made available to any Person (i) to fund any activity or business of or with any Sanctioned Person, or any dealing or investment in or with any country or territory that, at the time of such funding, is a Sanctioned Country, in each case, in violation of Sanctions Laws and Regulations or (ii) in any manner that would result in a violation of any Sanctions Laws and Regulations by any party to this Agreement;

(H) such L/C Issuer does not as of the issuance date of such requested Letter of Credit issue Letters of Credit in the requested currency; or

(I) any Revolving Credit Lender 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 Borrower or such Lender to eliminate such L/C Issuer's actual or potential Fronting Exposure (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 issue an amendment to any Letter of Credit if 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.

(iv) Each L/C Issuer shall act on behalf of the Revolving Credit Lenders 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.

(b) The foregoing benefits and immunities shall not excuse any L/C Issuer from liability to any Borrower to the extent of any direct damages (as opposed to indirect, special, consequential, punitive or exemplary damages claims which are hereby waived by the Borrower to the extent permitted by applicable law) suffered by such Borrower that are caused by such L/C Issuer's gross negligence, bad faith or willful misconduct as determined by a court of competent jurisdiction in a final and nonappealable judgment.

(c) Procedures for Issuance and Amendment of Letters of Credit; Auto-Extension Letters of Credit.

(i) Each Letter of Credit shall be issued or amended, as applicable, upon the request of the applicable Borrower delivered to the applicable L/C Issuer (with a copy to the Administrative Agent) in the form of an irrevocable Letter of Credit Application, including agreed-upon draft language for such Letter of Credit reasonably acceptable to the applicable L/C Issuer (it being understood that such draft language for each such Letter of Credit must be in English or, if agreed to in the sole discretion of the applicable L/C Issuer, accompanied by an English translation certified by the applicable Borrower to be a true and correct English translation), appropriately completed and signed by a Responsible Officer of the applicable Borrower. 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. (New York City time) at least five Business Days (or such shorter period as such L/C Issuer and the Administrative Agent may agree in a particular instance in their sole discretion) prior to the proposed issuance date. In the case of a request for the 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 not later than 30 days prior to the Maturity Date of the Revolving Credit Facility, unless the Administrative Agent and the applicable L/C Issuer otherwise agree); (B) the Person for whose account the requested Letter of Credit is to be issued (which must be a Restricted Group Member); and (C) 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 the issuance of the amendment (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) Promptly following delivery of any Letter of Credit Application to the applicable L/C Issuer, the applicable L/C Issuer will confirm with the Administrative Agent that the Administrative Agent has received a copy of such Letter of Credit Application and, if the Administrative Agent has not received a copy of such Letter of Credit Application, then the applicable L/C Issuer will provide the Administrative Agent with a copy thereof. Upon receipt by such L/C Issuer of confirmation from the Administrative Agent that the requested issuance or amendment is permitted in accordance with the terms hereof, 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 any Restricted Group Member (as designated in the Letter of Credit Application) or issue the applicable amendment, as applicable. Immediately upon the issuance of each Letter of Credit, each Revolving Credit Lender 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 Revolving Credit Facility multiplied by the amount of such Letter of Credit.

(iii) If the applicable Borrower 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 extension provisions (each, an "**Auto-Extension Letter of Credit**"); *provided* that any such Auto-Extension Letter of Credit must permit such L/C Issuer to prevent any such extension at least once in each 12-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 12-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 applicable Borrower shall not be required to make a specific request to such L/C Issuer for any such extension. Once an Auto-Extension Letter of Credit has been issued, the Revolving Credit Lenders shall be deemed to have authorized (but may not require) the applicable L/C Issuer to permit the extension of such Letter of Credit at any time to an expiry date not later than the Letter of Credit Sublimit Expiration Date; *provided*, *however*, that such L/C Issuer shall not permit any such extension if such L/C Issuer has determined that it would have no obligation at such time to issue such Letter of Credit in its extended form under the terms hereof (by reason of the provisions of Section 2.03(a)(ii) or otherwise).

(iv) Promptly upon request thereof by the applicable Borrower or the Administrative Agent and 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 applicable Borrower, the applicable Restricted Group Member 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 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 Loan Party 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 Restricted Group Member (an "**Other LC**") and (b) such Letter of Credit is issued to provide credit support for such Other LC, no amendments may be made to such Other LC without the consent of the applicable L/C Issuer hereunder.

(d) Drawings and Reimbursements; Funding of Participations.

(i) After examination of drawing document(s), the applicable L/C Issuer shall notify the applicable Borrower of the date and the amount of a drawing presented under any Letter of Credit and paid by such L/C Issuer. Each L/C Issuer shall notify the applicable Borrower on the date of any payment by such L/C Issuer under a Letter of Credit (each such date, an "**Honor Date**"), and the applicable Borrower 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 applicable Borrower 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 3:00 p.m. (New York time) in the case of drawings in Dollars or an Alternative Currency, in each case, on 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 applicable Borrower therefor at a rate per annum equal to the ABR 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 ABR Loans. If the applicable Borrower fails to so reimburse such L/C Issuer on such next Business Day, the L/C Issuer will notify the Administrative Agent thereof and the Administrative Agent shall promptly notify each Revolving Credit Lender under the applicable Revolving Tranche 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 applicable Borrower shall be deemed to have requested a Revolving Credit Borrowing of ABR Loans in Dollars, 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 ABR Loans, SOFR Loans or Eurocurrency Rate Loans, as applicable, but subject to the amount of the unused portion of the Revolving Credit Commitments under such Revolving 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) under the applicable Revolving Tranche 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, and in Dollars, its applicable Pro Rata Share of the Unreimbursed Amount not later than 3:00 p.m. (New York Time) 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 under such Revolving Tranche that so makes funds available shall be deemed to have made an ABR Revolving Credit Loan under such Revolving Tranche to the applicable Borrower 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 ABR 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 applicable Borrower 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 ABR 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 Revolving 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 applicable 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 applicable Borrower of a Committed Loan Notice). No such making of an L/C Advance shall relieve or otherwise impair the obligation of the applicable Borrower 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 Federal Funds Effective 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 applicable. 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 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 applicable Borrower 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 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 Federal Funds Effective 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 applicable Borrower 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, unconditional and irrevocable, 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 any Borrower 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 applicable Borrower 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 applicable Borrower's obligations hereunder.

The applicable Borrower shall promptly examine a copy of each Letter of Credit and each amendment thereto that is delivered to it and, in the event of any claim of noncompliance with the instructions of such Borrower or other irregularity, such Borrower will promptly notify the applicable L/C Issuer. The applicable Borrower 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 each Borrower 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 bad faith, 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. Each Borrower hereby assumes 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 any Borrower from pursuing such rights and remedies as it 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, each Borrower may have a claim against such L/C Issuer, and such L/C Issuer may be liable to each such Borrower, to the extent, but only to the extent, of any direct, as opposed to indirect, special, punitive, consequential or exemplary, damages suffered by such Borrower which a court of competent jurisdiction determines in a final non-appealable judgment were caused by such L/C Issuer's bad faith, willful misconduct or gross negligence or material breach of its obligations under this Agreement. In furtherance and not in limitation of the foregoing, the applicable L/C Issuer may, in its sole discretion, either 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 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 or refuse to accept and make payment upon such documents if such documents are not in strict compliance with the terms of such Letter of Credit.

(h) Letter of Credit Fees. Each Borrower 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 in Dollars which shall accrue for each Letter of Credit issued for its account on the Dollar Amount thereof in an amount equal to the Applicable Rate then in effect for SOFR Loans with respect to the Revolving Credit Facility multiplied by the daily maximum amount available to be drawn under such Letter of Credit (whether or not such maximum amount may be drawn immediately under 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 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 last Business Day 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, the date of termination or expiration of the applicable Letter of Credit, on the Letter of Credit Sublimit Expiration Date and thereafter on demand. 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. Each Borrower shall pay directly to the applicable L/C Issuer for its own account a fronting fee in Dollars equal to 0.125% of the maximum daily amount available to be drawn under such Letter of Credit issued for its account on a quarterly basis in arrears and based on the Dollar Amount thereof. Such fronting fee shall be due and payable on the last Business Day of each fiscal quarter beginning with the last Business Day of the first full fiscal quarter to end after the Closing Date 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, on the Letter of Credit Sublimit Expiration Date and thereafter on demand. 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, each Borrower, as applicable, 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 customary fees and standard costs and charges are due and payable within five Business Days of demand 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 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 less than 31 days (and in no event shall any such report 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 unused Revolving Credit Commitments thereunder at such time (it being understood that no partial 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 applicable Borrower agrees 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 applicable Borrower 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.

(m) Letters of Credit Issued for Account of Restricted Subsidiaries. Notwithstanding that a Letter of Credit issued or outstanding hereunder supports any obligations of, or is for the account of, a Restricted Subsidiary, or states that a Restricted Subsidiary is the "account party," "applicant," "customer," "instructing party," or the like of or for such Letter of Credit, and without derogating from any rights of the applicable L/C Issuer (whether arising by contract, at law, in equity or otherwise) against such Restricted Subsidiary in respect of such Letter of Credit, any Borrower (i) shall reimburse, indemnify and compensate the applicable L/C Issuer hereunder for such Letter of Credit (including to reimburse any and all drawings thereunder) as if such Letter of Credit had been issued solely for the account of such Borrower and (ii) irrevocably waives any and all defenses that might otherwise be available to it as a guarantor or surety of any or all of the obligations of such Restricted Subsidiary in respect of such Letter of Credit. Each Borrower hereby acknowledges that the issuance of such Letters of Credit for its Restricted Subsidiaries inures to the benefit of such Borrower, and that such Borrower's business derives substantial benefits from the businesses of such Restricted Subsidiaries.

(n) Applicability of ISP and UCP. Unless otherwise expressly agreed in writing by the applicable L/C Issuer and the applicable Borrower when a Letter of Credit is issued for such Borrower's account by such L/C Issuer, (i) the rules of the ISP shall be stated therein to apply to each standby Letter of Credit and (ii) the rules of the UCP shall be stated therein to apply to each commercial Letter of Credit. Notwithstanding the foregoing, no L/C Issuer shall be responsible to any Borrower for, and such L/C Issuer's rights and remedies against any such Borrower shall not be impaired by, any action or inaction of such L/C Issuer required or permitted under any law, order, or practice that is required or permitted to be applied to any Letter of Credit or this Agreement, including the Laws or any order of a jurisdiction where such L/C Issuer or the beneficiary is located, the practice stated in the ISP or UCP, as applicable, or in the decisions, opinions, practice statements, or official commentary of the International Chamber of Commerce Banking Commission, the Bankers Association for Finance and Trade (BAFT), or the Institute of International Banking Law & Practice, whether or not any Letter of Credit chooses such laws or practice rules.

Section 2.04 [Reserved].

Section 2.05 Prepayments.

(a) Optional.

(i) Any Borrower may, upon notice 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 Sections 2.05(a)(iii) below; *provided* that (1) such notice must be received by the Administrative Agent not later than (A) 12:00 p.m. (New York City time) three Business Days prior to any date of prepayment of SOFR Loans or Eurocurrency Rate Loans and (B) 11:00 a.m. (New York City time) on the date of prepayment of ABR Loans (or, in each case, such shorter period as the Administrative Agent shall agree); (2) any prepayment of SOFR Loans or Eurocurrency Rate Loans shall be (x) in a principal amount of $3,000,000 (or the equivalent Dollar Amount), or (y) a whole multiple of $1,000,000 (or the equivalent Dollar Amount) in excess thereof; and (3) any prepayment of ABR Loans shall be (x) in a principal amount of $500,000 (or the equivalent Dollar Amount), or (y) a whole multiple of $100,000 (or the equivalent Dollar Amount) 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 and, if SOFR Loans or Eurocurrency Rate Loans are to be prepaid, the Interest Period(s) of such Loans (except that if the class of Loans to be prepaid includes both (i) ABR Loans and (ii) SOFR Loans or Eurocurrency Rate Loans, absent direction by the applicable Borrower, the applicable prepayment shall be applied first to ABR Loans to the full extent thereof before application to SOFR Loans or Eurocurrency Rate Loans, in a manner that minimizes the amount payable by the applicable Borrower in respect of such prepayment pursuant to Section 3.06, to the extent applicable). 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 any Borrower, subject to clause (ii) below, such Borrower 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 SOFR Loan or Eurocurrency Rate Loan shall be accompanied by all accrued interest thereon, together with any additional amounts required pursuant to Section 2.05(a)(iii) and, if applicable Section 3.06. Each prepayment of the principal of, and interest on, any Revolving Credit Loans denominated in an Alternative Currency, shall be made in the relevant Alternative Currency. Subject to Section 2.17, each prepayment of outstanding Term Loan Tranches pursuant to this Section 2.05(a) shall be applied to the Term Loan Tranche or Term Loan Tranches designated on such notice on a pro rata basis within such Term Loan Tranche. Subject to Section 2.17, each prepayment of an outstanding Term Loan Tranche pursuant to this Section 2.05(a) shall be applied to the remaining amortization payments of such Term Loan Tranche as directed by such Borrower (or, if such Borrower has not made such designation, in direct order of maturity), but, in any event, on a pro rata basis to the Lenders within such Term Loan Tranche.

(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, indentures or similar agreements or other transactions), in which case such notice may be revoked or extended by the applicable Borrower (by written notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied.

(iii) If the Borrower (A) makes a voluntary prepayment of Initial Term Loans pursuant to this Section 2.05(a) resulting in a Repricing Event, (B) effects an amendment with respect to Initial Term Loans resulting in a Repricing Event or (C) makes a prepayment of Initial Term Loans pursuant to Section 2.05(b)(iii) resulting in a Repricing Event, in each case prior to the six-month anniversary of the Closing Date, the Borrower shall pay to the Administrative Agent, for the ratable account of the applicable Term Lenders, a prepayment premium in an amount equal to 1.0% of the principal amount prepaid (or in the case of clause (B), a prepayment premium in an amount equal to 1.0% of the principal amount of affected Initial Term Loans held by Term Lenders not consenting to such amendment).

(b) Mandatory.

(i) For any Excess Cash Flow Period, within ten Business Days after financial statements have been delivered pursuant to Section 6.01(a) and the related Compliance Certificate has been delivered pursuant to Section 6.02(a) (or, if later, the date on which such financial statements and such Compliance Certificate are required to be delivered), the Borrower shall prepay an aggregate principal amount of Term Loans in an amount equal to (A) 50.0% (as may be adjusted pursuant to the proviso below) of Excess Cash Flow for such Excess Cash Flow Period, *minus* (B) at the option of the Borrower, the sum of:

(1) the aggregate amount of voluntary principal prepayments of the Loans or Indebtedness that is secured by a Lien on the Collateral on a senior or *pari passu* basis 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 last day of the applicable Excess Cash Flow Period (or, at the Borrower's option, after the end of the relevant Excess Cash Flow Period but prior to the time such Excess Cash Flow payment is due; *provided* that to the extent the Borrower exercises such option, such deducted amount

shall not be permitted as a reduction against the subsequent Excess Cash Flow Period calculation) (including prepayments at a discount to par and open market purchases, with credit given for the actual amount of the cash payment 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 secured by a Lien on the Collateral on a senior or *pari passu* basis 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 any long-term Indebtedness (other than revolving Indebtedness),

(2) [reserved],

(3) any amount not required to be applied to such prepayment pursuant to Section 2.05(b)(viii) or (x),

(4) the portion of the Excess Cash Flow applied (to the extent any Restricted Group Member is required by the terms thereof) to prepay, repay or purchase Indebtedness that is secured by a Lien on the Collateral on a *pari passu* basis with the Initial Term Loans (to the extent the documentation governing such Indebtedness requires such a prepayment or repurchase thereof with Excess Cash Flow), in each case in an amount not to exceed the product of (x) the amount of Excess Cash Flow and (y) 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 determined in accordance with Section 1.08) and the denominator of which is the aggregate outstanding principal amount of Term Loans and all such other Indebtedness, in each case other than to the extent that any such prepayment is funded with the proceeds of any long-term Indebtedness (other than revolving Indebtedness),

(5) the aggregate amount of capital expenditures either made in cash or accrued by the Restricted Group during the period commencing on the first day of the relevant Excess Cash Flow Period and ending on the last day of the applicable Excess Cash Flow Period (or, at the Borrower's option, after the end of the relevant Excess Cash Flow Period but prior to the time such Excess Cash Flow payment is due; *provided* that to the extent the Borrower exercises such option, such deducted amount shall not be permitted as a reduction against the subsequent Excess Cash Flow Period calculation) and in each case other than to the extent that any such capital expenditures are funded with the proceeds of any long-term Indebtedness (other than revolving Indebtedness),

(6) the aggregate amount of cash consideration paid by the Restricted Group in connection with Investments (including, without limitation, any acquisitions and acquisitions of intellectual property) during the period commencing on the first day of the relevant Excess Cash Flow Period and ending on the last day of the applicable Excess Cash Flow Period (or, at the Borrower's option, after the end of the relevant Excess Cash Flow Period but prior to the time such Excess Cash Flow payment is due; *provided* that to the extent the Borrower exercises such option, such deducted amount shall not be permitted as a reduction against the subsequent Excess Cash Flow Period calculation) and in each case other than to the extent that any such cash consideration is funded with the proceeds of any long-term Indebtedness (other than revolving Indebtedness),

(7) without duplication of amounts deducted from Excess Cash Flow pursuant to this Section 2.05(b)(i)(B)(7) in respect of prior fiscal years, the aggregate cash payments that any Restricted Group Member has committed to make or is required to make or plans to make (the "**Budgeted Amounts**") in respect of Restricted Payments (excluding Restricted Payments made pursuant to clause (17)(ii) of Section 7.05(b)) and Investments (including, without limitation, any acquisitions and acquisitions of intellectual property) or capital expenditures planned to be consummated or made during the period of four consecutive fiscal quarters of the Borrower following the end of such fiscal year; *provided* that to the extent the aggregate amount of cash actually utilized to finance such Restricted Payments and Investments and capital expenditures during such period of four consecutive fiscal quarters is less than the Budgeted Amounts, the amount of such shortfall shall be added back in calculating the ECF Prepayment Amount for the subsequent Excess Cash Flow Period, and

(8) the aggregate amount of payments either made in cash or accrued by the Restricted Group during the period commencing on the first day of the relevant Excess Cash Flow Period and ending on the last day of the applicable Excess Cash Flow Period (or, at the Borrower's option, after the end of the relevant Excess Cash Flow Period but prior to the time such Excess Cash Flow payment is due; *provided* that to the extent the Borrower exercises such option, such deducted amount shall not be permitted as a reduction against the subsequent Excess Cash Flow Period calculation) in respect of Restricted Payments (other than to the extent that any such Restricted Payments are funded with long-term Indebtedness or Capital Stock);

provided that such percentage in respect of any Excess Cash Flow Period shall be reduced to 25.0% and to 0.0% if the Consolidated First Lien Net Leverage Ratio as of the last day of the fiscal year to which such Excess Cash Flow Period relates was equal to or less than 2.60 to 1.00 or 2.10 to 1.00, respectively (the amount described in this clause (i), the "**ECF Prepayment Amount**" and with respect to any Excess Cash Flow Period, (a) Excess Cash Flow for such Excess Cash Flow Period *minus* (b) the ECF Prepayment Amount for such Excess Cash Flow Period shall constitute "**Retained Excess Cash Flow Amount**" which Retained Excess Cash Flow Amount may be used for any purpose permitted hereunder);

provided, *further*, that no prepayment shall be required with respect to any Excess Cash Flow Period unless the ECF Prepayment Amount exceeds the greater of $25,000,000 and 5.0% of LTM EBITDA, and in such case, the ECF Prepayment Amount shall be the amount in excess thereof.

(ii) If any Asset Disposition or Casualty Event (or series of related Asset Dispositions or Casualty Events) (other than, in each case, any Excluded Casualty Event) results in the receipt by any Restricted Group Member of aggregate Net Cash Proceeds in excess of the greater of $50,000,000 and 10.0% of LTM EBITDA ("**Relevant Transaction**"), then, except to the extent the Borrower elects to reinvest an amount equal to all or a portion of such Net Cash Proceeds in accordance with Section 7.04, the Borrower shall prepay, subject to Section 2.05(b)(viii), an aggregate principal amount of Term Loans in an amount equal to 100.0% (as may be adjusted pursuant to the second proviso below) of the Net Cash Proceeds received from such Relevant Transaction within the time period specified in Section 7.04;

provided that the Borrower or any Restricted Subsidiary 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 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 determined in accordance with Section 1.08) 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 determined in accordance with Article I);

provided, *further*, that such prepayment percentage shall be reduced from 100.0% to 50.0% and to 0.0% if, on a pro forma basis after giving effect to such Asset Disposition or Casualty Event, as applicable, and the use of proceeds therefrom, the Consolidated First Lien Net Leverage Ratio would be equal to or less than 2.60 to 1.00 or 2.10 to 1.00, respectively (any Net Cash Proceeds in respect of any such Asset Disposition or Casualty Event not required to be applied in accordance with this Section 2.05(b) as a result of the application of this proviso shall collectively constitute "**Retained Asset Excess Proceeds**", which Retained Asset Excess Proceeds may be used for any purpose permitted hereunder);

provided, *further*, that only the amount of Net Cash Proceeds in excess of the greater of $50,000,000 and 10.0% of LTM EBITDA for any Asset Disposition or Casualty Event (or series of related Asset Dispositions 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 any Restricted Group Member of any Credit Agreement Refinancing Debt, any Specified Refinancing Term Loans, in each case, incurred to refinance a Term Loan Tranche, or any Indebtedness not expressly permitted to be incurred or issued pursuant to Section 7.01, the Borrower shall prepay an aggregate principal amount of Term Loan Tranches in an amount equal to 100.0% of all Net Cash Proceeds received therefrom immediately upon receipt thereof by such Restricted Group Member.

(iv) Upon the incurrence by any Restricted Group Member of any Specified Refinancing Debt constituting revolving credit facilities incurred to refinance Revolving Credit Loans, the applicable Borrower shall prepay an aggregate principal amount of Revolving Credit Loans in an amount equal to 100.0% of all Net Cash Proceeds received therefrom immediately upon receipt thereof by such Restricted Group Member.

(v) If for any reason the sum of the Total Revolving Credit Outstandings of a Revolving Tranche at any time exceeds the sum of the applicable Revolving Tranche in respect thereof (including after giving effect to any reduction in the Revolving Credit Commitments of such Revolving Tranche pursuant to Section 2.06), one or more of the Borrowers shall immediately prepay the Loans under 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 applicable Borrower 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 Loans under the applicable Revolving Tranche the sum of the Total Revolving Credit Outstandings of such applicable Revolving Tranche exceed the aggregate Revolving Credit Commitments for such applicable Revolving Tranche then in effect.

(vi) Subject to Section 2.17, (1) if the Borrower elects in its sole discretion via written notice (which notice may be given via email to the Administrative Agent), the aggregate amount of any prepayment of Term Loans that is required pursuant to this Section 2.05(b) shall be applied to the Term Loan Tranche or Term Loan Tranches designated by the Borrower on such notice on a pro rata basis within such Term Loan Tranche or (2) if the Borrower does not make the election specified in clause (1), the aggregate amount of any prepayment of Term Loans that is required pursuant to this Section 2.05(b) shall be made to each Term Loan Tranche on a *pro rata* basis (or, if agreed to in writing by the Majority Lenders of a Term Loan Tranche, in a manner that provides for more favorable prepayment treatment of other Term Loan Tranches) (other than a prepayment of (x) 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 (y) Term Loans with the proceeds of any Credit Agreement Refinancing Debt issued to the extent permitted under Section 7.01(b)(1), 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 interest on each such Term Loan Tranche on a pro rata basis that is accrued and payable at such time and thereafter to the remaining scheduled installments with respect to such Term Loan Tranche in direct order of maturity. Each prepayment of Term Loans under a particular Tranche of a Facility pursuant to this Section 2.05(b) shall (1) if the Borrower makes the election described in Section 2.05(b)(vi)(1), be applied to the remaining amortization payments of such Term Loan Tranche as directed by such Borrower (or, if such Borrower has not made such designation, in direct order of maturity), but, in any event, on a pro rata basis to the Lenders within such Term Loan Tranche and (2) if the Borrower has not made the election specified in Section 2.05(b)(vi)(1), be applied on a pro rata basis to the then outstanding ABR Loans and SOFR Loans under such Tranche; *provided* that, if there are no Declining Lenders with respect to such prepayment, then the amount thereof shall be applied first to ABR Loans under such Tranche to the full extent thereof before application to SOFR Loans, in each case in a manner that minimizes the amount payable by the applicable Borrower 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 SOFR Loan or Eurocurrency Rate Loan on a date other than the last day of an Interest Period therefor, any amounts owing in respect of such SOFR Loan or Eurocurrency Rate 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 SOFR Loans or Eurocurrency Rate Loans is required to be made under this Section 2.05(b), other than on the last day of the Interest Period therefor, the applicable Borrower may, in its 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 such Borrower or any other Loan Party) 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 such Borrower or any other Loan Party) 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 Disposition by a Non-U.S. Subsidiary (or a U.S. Subsidiary of a Non-U.S. Subsidiary) (a "**Foreign Disposition**") or the Net Cash Proceeds of any Casualty Event from a Non-U.S. Subsidiary (or a U.S. Subsidiary of a Non-U.S. Subsidiary) (a "**Foreign 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, without limitation, (i) financial assistance and corporate benefit restrictions and (ii) fiduciary and statutory duties of any director or officer of such Subsidiaries), restricted by applicable organizational documents or any agreement or is subject to other onerous organizational or administrative impediments, in each case, from being repatriated or otherwise paid to the applicable Borrower or so prepaid or such repatriation, other payment 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.

(ix) [Reserved.]

(x) Notwithstanding any other provisions of this Section 2.05, to the extent that the Company has determined in good faith that repatriation or other payment of any or all of the Net Cash Proceeds of any Foreign Disposition or any Foreign 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), could reasonably be expected to result in adverse Tax consequences (which for the avoidance of doubt, includes, but is not limited to, any prepayment out of such Net Cash Proceeds whereby doing so the Company, any of its Subsidiaries, any direct or indirect parent of the Company or any of their respective affiliates and/or equity owners would incur a Tax liability, including as a result of a taxable dividend or a withholding Tax) or is prohibited or restricted by applicable law, rule or regulation, 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.

(xi) No Restricted Group Member shall be required to monitor any Payment Block and/or reserve cash for future repatriation after the Company has notified the Administrative Agent of the existence of such Payment Block.

(c) Term Lender Opt-Out. With respect to any mandatory prepayment of Initial Term Loans and, unless otherwise specified in the documents therefor, other Term Loan Tranches, pursuant to Section 2.05(b)(i) or (ii), any Appropriate Lender, at its option (but solely to the extent the Borrower elects for this clause (c) to be applicable to a given prepayment, other than in connection with any Credit Agreement Refinancing Debt or any Specified Refinancing Term Loans), may elect not to accept such prepayment as provided below. The Borrower may notify the Administrative Agent of any event giving rise to a prepayment under Section 2.05(b)(i) or (ii) at least ten 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 (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 Borrower, including the date on which such prepayment is to be made (the "**Prepayment Date**"). Any Appropriate Lender may (but solely to the

extent the Borrower elects 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 five 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 fifth 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 Borrower and applied by the Administrative Agent ratably to prepay Term Loans under the Term Loan Tranches owing to Appropriate Lenders (other than Declining Lenders) in the manner described in Section 2.05(b) 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 shall be retained by the Borrower (any Net Cash Proceeds retained by the Borrower in accordance with this Section 2.05(c) shall constitute "**Retained Declined Proceeds**").

(d) All Loans shall be repaid, whether pursuant to this Section 2.05 or otherwise, in the currency in which they were made.

Section 2.06 Termination or Reduction of Commitments.

(a) Optional. Any Borrower may, upon written notice by such Borrower 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 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 the equivalent Dollar Amount) or any whole multiple of $100,000 (or the equivalent Dollar Amount) in excess thereof and (iii) such Borrower 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 Revolving Credit Facility or (y) the Total Revolving Credit Outstandings with respect to such Tranche would exceed the Revolving Credit Commitments under such Tranche or (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, indentures or similar agreements or other transactions), in which case such notice may be revoked by such Borrower (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 termination of the Aggregate Commitments and payment in full of all Obligations in cash and in immediately available funds (other than any Remaining Obligations) and the expiration without any pending drawing or termination of all Letters of Credit (other than any Remaining Obligations), this Agreement shall automatically terminate and the Administrative Agent shall comply with Section 9.01(c) and 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 (except as provided pursuant to the definitive documentation relating to any Term Loan Tranche that is in the form of a delayed draw facility).

(ii) Upon the incurrence by any Restricted Group Member 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 100.0% of the Commitments under such Specified Refinancing Debt constituting 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 Facility 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 facility 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. For the avoidance of doubt, to the extent that any portion of the Revolving Credit Loans have been refinanced with one or more new revolving credit facilities constituting Specified Refinancing Debt, any prepayments of Revolving Credit Loans made pursuant to this Section 2.06 (other than any prepayments of Revolving Credit Loans made pursuant to Section 2.06(b)(ii)) shall be allocated ratably among the Revolving Tranches.

Section 2.07 Repayment of Loans.

(a) Initial Term Loans. The Company shall repay to the Administrative Agent for the ratable account of the Initial Term Lenders the aggregate principal amount of the Initial Term Loans outstanding in consecutive quarterly installments as follows (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 the 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 the Initial Term Loans starting with the fiscal quarter ending on June 30, 2022	0.25% of the aggregate initial principal amount of the Initial Term Loans on the Closing Date
Maturity Date for the Initial Term Loans	All unpaid aggregate principal amounts of any outstanding Initial Term Loans

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 the Initial Term Loans shall be repaid on the Maturity Date for the 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 Borrower shall repay to the Administrative Agent for the ratable account of the Appropriate Lenders on the applicable Maturity Date for the Revolving Credit Facilities of a given Tranche the aggregate principal amount of all of its Revolving Credit Loans of such Tranche outstanding on such date.

(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) Each SOFR 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) Term SOFR for such Interest Period *plus* (B) the Applicable Rate for SOFR Loans under such Facility.

(b) Each Eurocurrency Rate 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 Adjusted Eurocurrency Rate for such Interest Period *plus* (B) the Applicable Rate for Eurocurrency Rate Loans under such Facility.

(c) Each ABR Loan under a Facility shall bear interest on the outstanding principal amount thereof from the applicable borrowing date or conversion date, as applicable, at a rate per annum equal to the sum of (A) the ABR *plus* (B) the Applicable Rate for ABR Loans under such Facility.

(d) Notwithstanding the foregoing, during the continuance of an Event of Default under Section 8.01(a), (f) or (g), the applicable Borrower shall pay interest on all overdue Obligations hereunder, which shall include all Obligations following an acceleration pursuant to Section 8.02 (including an automatic acceleration), at a fluctuating interest rate per annum at all times equal to the 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.

(e) 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; *provided* that in the event of any repayment or prepayment of any Loan (other than Revolving Credit Loans bearing interest based on the ABR 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.

(f) Interest on each Loan shall be payable in the currency in which each Loan was made.

(g) All computations of interest hereunder shall be made in accordance with Section 2.10 of this Agreement.

(h) Term SOFR Conforming Changes. In connection with the use or administration of Term SOFR, the Administrative Agent will have the right to make Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Loan Document. The Administrative Agent will promptly notify the Borrower and the Lenders of the effectiveness of any Conforming Changes in connection with the use or administration of Term SOFR.

Section 2.09 Fees. In addition to certain fees described in Sections 2.03(h) and (i):

(a) Revolving Credit Commitments Commitment Fee. The applicable Borrower 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 average daily amount for the applicable fiscal quarter by which the aggregate Revolving Credit Commitments under such Tranche exceed the sum of (A) the Outstanding Amount of Revolving Credit Loans under such Tranche and (B) 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 last Business Day of each fiscal quarter, commencing with the last Business Day of the first full fiscal quarter to end following the Closing Date, and on the Maturity Date for the Revolving Credit Facility. For the avoidance of doubt, the commitment fee payable hereunder shall accrue and be payable in Dollars.

(b) Other Fees. The applicable Borrower shall pay to the Lenders, the Administrative Agent and the Collateral Agent such fees as shall have been separately agreed upon in writing in the amounts and at the times so specified.

Section 2.10 Computation of Interest and Fees; Retroactive Adjustments of Applicable Rate.

(a) All computations of interest for ABR Loans when the Alternate Base Rate is based on the Prime Rate shall be made on the basis of a year of 365 or 366 days, as applicable, and actual days elapsed. All other computations of fees and interest shall be made on the basis of a 360-day year and actual days elapsed or, in the case of interest in respect of Loans denominated in Alternative Currencies as to which generally accepted market practice differs from the foregoing, in accordance with such generally accepted market practice. Interest shall accrue on each Loan for the day on which the Loan is made, and shall not accrue on a Loan, or any portion thereof, for the day on which the Loan or such portion is paid; *provided* that any Loan that is repaid on the same day on which it is made shall, subject to Section 2.12(a), bear interest for one day. Each determination by the Administrative Agent of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error. The Administrative Agent shall, at the request of the applicable Borrower, deliver to such Borrower a statement showing the quotations used by the Administrative Agent in determining any interest rate hereunder.

(b) If, as a result of any restatement of or other adjustment to the financial statements of the Company or for any other reason, the Company or the Lenders determine that (i) the Consolidated First Lien Net Leverage Ratio as calculated by the Company as of any applicable date was inaccurate and (ii) a proper calculation of such ratio would have resulted in higher interest and/or fees for any period, the Company shall be obligated to pay to the Administrative Agent for the account of the applicable Lenders or the applicable L/C Issuer, as applicable, promptly on demand by the Administrative Agent (or, after the occurrence of an actual or deemed entry of an order for relief with respect to the applicable Borrower under the Bankruptcy Code of the United States, automatically and with any such demand by the Administrative Agent being excused), an amount equal to the excess of the amount of interest and fees that should have been paid for such period over the amount of interest and fees actually paid for such period. This clause shall not limit the rights of the Administrative Agent, any Lender or the applicable L/C Issuer, as applicable, under Section 2.03(d)(iii), Section 2.03(h) or (i), Section 2.08 or under Article VIII. Except in any case where a demand is excused as provided above, any additional interest and fees under this Section 2.10(b) shall not be due and payable until a demand is made for such payment by the Administrative Agent and accordingly, any nonpayment of such interest and fees as result of any such inaccuracy shall not constitute a Default (whether retroactively or otherwise), and none of such additional amounts shall be deemed overdue or accrue interest at the Default Rate, in each case at any time prior to the date that is five Business Days following such demand.

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 United States Treasury Regulations Section 5f.103- 1(c) and Proposed United States Treasury Regulations Section 1.163-5(b) (or any amended or successor version), as a non-fiduciary agent for each Borrower, in each case in the ordinary course of business. The accounts or records maintained by each Lender shall be prima facie evidence absent manifest error of the amount of the Credit Extensions made by the Lenders to each Borrower 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 Borrower 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 Borrower shall execute and deliver to such Lender (through the Administrative Agent) a Note payable to such Lender, which execution and delivery the Administrative Agent shall record in the Register, which, to the extent consistent with the records in the Register, 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 Section 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 Borrower 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 Borrower 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 a Borrower shall be made without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein and except with respect to payments in an Alternative Currency, all payments by a Borrower 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 immediately available funds not later than 3:00 p.m. (New York City time) on the date specified herein. Except as otherwise expressly provided herein, all payments by a Borrower hereunder in an Alternative Currency 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 such Alternative Currency and in immediately available funds not later than the applicable time specified by the Administrative Agent on the dates specified herein. If, for any reason, a Borrower is prohibited by any Law from making any required payment hereunder in an Alternative Currency, such Borrower shall make such payment in Dollars in the equivalent Dollar Amount. 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 3:00 p.m. (New York City time) 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 a Borrower 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 applicable; *provided*, *however*, that, if such extension would cause payment of interest on or principal of SOFR Loans or Eurocurrency Rate Loans to be made in the next succeeding calendar month, such payment shall be made on the immediately preceding Business Day. An L/C Issuer can elect to receive payments in respect of Letters of Credit in Dollars rather than in an Alternative Currency.

(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 Loans (or, in the case of any Borrowing of ABR Loans, prior to 3:00 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 Borrower 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 applicable Borrower agrees 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 such Borrower 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 Federal Funds Effective 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 such

Borrower, the interest rate applicable to ABR Loans under the applicable Facility. If both the applicable Borrower and such Lender pay such interest to the Administrative Agent for the same or an overlapping period, the Administrative Agent shall promptly remit to such Borrower the amount of such interest paid by such Borrower 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 applicable Borrower shall be without prejudice to any claim such Borrower 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 Borrower; Presumptions by Administrative Agent. Unless the Administrative Agent shall have received notice from a Borrower 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 such Borrower will not make such payment, the Administrative Agent may assume that such Borrower has 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 applicable, the amount due. In such event, if such Borrower does not in fact make such payment, then each of the Appropriate Lenders or the applicable L/C Issuer, as applicable, 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 but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Effective 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.

A notice of the Administrative Agent to any Lender or any Borrower 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 Borrower 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 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 (a) the Outstanding Amount of all Loans outstanding at such time and (b) 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 applicable, as shall be necessary to cause such purchasing Lender to share the excess payment in respect of such Loans or such participations, as applicable, 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. Each Borrower agrees 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 such 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, exchange, open market debt repurchase, or otherwise) 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 Extension described in Section 2.19, or (E) any applicable circumstances contemplated by Section 2.05(b), 2.14, 2.17 or 3.08. For purposes of clause (b) of the definition of "Excluded Taxes," a Lender that acquires a participation pursuant to this Section 2.13 shall be treated as having acquired such participation on the earlier date(s) on which such Lender acquired the applicable interest(s) in the Commitment(s) or Loan(s) (as applicable) to which such participation relates.

Section 2.14 Incremental Facilities.

(a) Any Borrower may, from time to time after the Closing Date, upon notice by such Borrower to the Administrative Agent and the Person appointed by such Borrower to arrange an incremental Facility (such Person (who may be (i) the Administrative Agent, if it so agrees, or (ii) any other Person appointed by such Borrower), the "**Incremental Arranger**") specifying the proposed Borrower (which may include a Co-Borrower), the proposed amount thereof and the proposed currency denomination thereof, request (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, in each case, in such currency or currencies as such Borrower identifies in such notice (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 (including one or more delayed draw term loan facilities), in each case, in such currency or currencies as such Borrower identifies in such notice (each, a "**New Term Facility**", together with any New Revolving Facility, Term Commitment Increase or Revolving Credit Commitment Increase, the "**Incremental Facilities**"; and any advance made by a Lender thereunder, a "**New Term Loan**"; and the commitments thereof, the "**New Term Commitment**" and such New Term Commitment, 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:

(w) (i) the sum of (A) the greater of (1) $500,000,000 and (2) 100.0% of LTM EBITDA and (B) the amount of Indebtedness available to be incurred pursuant to Section 7.01(b)(14), *minus* (ii) the amount of any Indebtedness previously incurred in reliance on this clause (w) as incremental facilities incurred pursuant to this Section 2.14, Incremental Equivalent Debt and/or Ratio Debt (and not redesignated as incurred under any other provision of the Incremental Amount in accordance with this Agreement) (the "**Cash-Capped Incremental Facility**"),

(x) an unlimited amount (the "**Ratio-Based Incremental Facility**") so long as the Maximum Leverage Requirement is satisfied,

(y) an amount equal to (i) (A) all voluntary prepayments of Term Loans or any other long-term Indebtedness that is secured by a Lien on the Collateral on a senior or *pari passu* basis with the Initial Term Loans (including, for the avoidance of doubt, any New Term Loans that are secured by a Lien on the Collateral on a senior or *pari passu* basis with the Initial Term Loans) (including any payments made pursuant to Section 2.05(a) or Section 3.08(a)) and (B) all repurchases and/or cancellations of Term Loans or any other long-term Indebtedness that is secured by a Lien on the Collateral on a senior or *pari passu* basis with the Initial Term Loans (including, for the avoidance of doubt, any New Term Loans that are secured by a Lien on the Collateral on a senior or *pari passu* basis with the Initial Term Loans) in an amount equal to the amount of the Indebtedness retired in connection with such repurchase and (ii) (A) all voluntary prepayments of Revolving Credit Loan and any other revolving credit loans that are secured by a Lien on the Collateral on a senior or *pari passu* basis with the Initial Term Loans (including, for the avoidance of doubt, any New Revolving Loans that are secured by a Lien on the Collateral on a senior or *pari passu* basis with the Initial Term Loans) (including any payments made pursuant to Section 2.05(a) or Section 3.08(a)) to the extent accompanied by a corresponding, permanent reduction in the

applicable revolving credit commitment, (B) all repurchases and/or cancellations of Revolving Credit Loans or any other revolving credit loans that are secured by a Lien on the Collateral on a senior or *pari passu* basis with the Initial Term Loans (including, for the avoidance of doubt, any New Revolving Loans that are secured by a Lien on the Collateral on a senior or *pari passu* basis with the Initial Term Loans) in an amount equal to the amount of the Indebtedness retired in connection with such repurchase and (C) all voluntary prepayments, repurchases and/or cancellations of any other First Lien Specified Debt, in each case under this clause (y), (x) including any payments made at a discount to par or via an open-market purchase (with credit given for the actual amount of any cash payment) and (y) to the extent not funded with the proceeds of long-term Indebtedness (it being agreed and understood, for the avoidance of doubt, that Indebtedness incurred pursuant to any revolving credit facility (including the Revolving Credit Facility) shall not constitute long-term Indebtedness for such purpose) (the "**Prepayment-Based Incremental Facility**"), and

(z) (i) in the case of any New Revolving Facility or New Term Facility that effectively extends the maturity date of any First Lien Specified Debt, Junior Lien Specified Debt or Other Specified Debt, an amount equal to the portion of such First Lien Specified Debt, Junior Lien Specified Debt or Other Specified Debt that will be replaced by such New Revolving Facility or New Term Facility (the "**Effective Extension Incremental Facility**") and (ii) in the case of any New Revolving Facility or Revolving Credit Commitment Increase that effectively replaces any Commitments under the Revolving Credit Facility or any New Revolving Facility or Revolving Credit Commitment Increase that is terminated pursuant to Section 3.08(a), an amount equal to the portion of such Commitments that will be so terminated;

(such sum of the foregoing clauses (w)-(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) $5,000,000 or, in the case of any New Loan Commitments denominated in an Alternative Currency, the equivalent Dollar Amount, 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, Incremental Equivalent Debt Incurred pursuant to Section 2.15 and any Ratio Debt:

(A) unless the applicable Borrower elects otherwise, (x) the Borrower shall be deemed to have used amounts under the Ratio-Based Incremental Facility (to the extent compliant therewith) prior to using amounts under the Effective Extension Incremental Facility, the Prepayment-Based Incremental Facility or the Cash-Capped Incremental Facility and (y) the Borrower shall be deemed to have used the Prepayment-Based Incremental Facility prior to utilization of the Cash-Capped Incremental Facility;

(B) New Loan Commitments pursuant to this Section 2.14, Incremental Equivalent Debt pursuant to Section 2.15 and Ratio Debt may be incurred substantially concurrently under the Ratio-Based Incremental Facility (to the extent compliant therewith), the Effective Extension Incremental Facility, the Prepayment-Based Incremental Facility and the Cash-Capped Incremental Facility or any combination of any of the foregoing, and proceeds from any such incurrence may be utilized in a single transaction or series of related transactions by, unless the applicable Borrower elects otherwise, first, calculating the incurrence under the Ratio-Based

Incremental Facility (without inclusion of (x) any amounts incurred substantially concurrently pursuant to the Prepayment-Based Incremental Facility or the Cash-Capped Incremental Facility, (y) any amounts incurred substantially concurrently under any fixed basket under Section 7.01 or (z) any revolving credit loans incurred substantially concurrently with such single transaction or series of related transactions) 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 Effective Extension Incremental Facility and the Cash-Capped Incremental Facility, as applicable;

(C) all or any portion of Indebtedness originally designated as incurred under the Prepayment-Based Incremental Facility or the Cash-Capped Incremental Facility shall automatically cease to be deemed incurred under the Prepayment-Based Incremental Facility or the Cash-Capped Incremental Facility and shall instead be deemed incurred under the Ratio-Based Incremental Facility from and after the first date on which the applicable Borrower 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 (for the avoidance of doubt, which determination shall be made without duplication of such Indebtedness originally designated as incurred under the Prepayment-Based Incremental Facility or the Cash-Capped Incremental Facility) (which, for the avoidance of doubt, shall have the effect of increasing the Prepayment-Based Incremental Facility and/or the Cash-Capped Incremental Facility, as applicable, by all or such portion, as applicable, of the aggregate principal amount of such Indebtedness); *provided* that, for the avoidance of doubt, any Indebtedness originally designated as incurred under the Prepayment-Based Incremental Facility or the Cash-Capped Incremental Facility and subsequently deemed to be incurred under the Ratio-Based Incremental Facility pursuant to this clause (C) shall not be subject to the MFN Provision as a result of being deemed incurred under the Ratio-Based Incremental Facility; and

(D) solely for the purpose of cash netting in calculating the Consolidated First Lien Net Leverage Ratio, the Consolidated Senior 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, to the extent not promptly applied, any cash proceeds of any New Loan Commitments incurred pursuant to this Section 2.14 and any Incremental Equivalent Debt Incurred pursuant to Section 2.15, in each case, incurred at such test date shall be excluded for purposes of calculating cash or Cash Equivalents.

The applicable Borrower may designate any Incremental Arranger of any New Loan Commitments with such titles under the New Loan Commitments as such Borrower may deem appropriate.

(b) For the avoidance of doubt, the applicable Borrower 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 applicable Borrower 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. Unless requested by the Company, neither the Administrative Agent nor the Collateral Agent (in their respective capacities as such) shall be required to execute, accept or acknowledge any joinder agreement pursuant to this Section 2.14 and such execution shall not be required for any such joinder agreement to be effective; *provided* that, with respect to any New Loan Commitments, such Borrower must provide to the Administrative Agent the documentation providing for such New Loan Commitments.

(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 applicable Borrower 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 (i) any increase in a Term Loan Tranche or Revolving Tranche or (ii) 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 applicable Borrower, the Administrative Agent and the Incremental Arranger (and the Lenders hereby authorize 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 such 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 applicable Borrower, the Administrative Agent and the Incremental Arranger (and the Lenders hereby authorize 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) no Event of Default (subject to Section 1.02(i)) would exist immediately after giving effect thereto;

(ii)

(A) in the case of any increase of the Revolving Tranche, (1) the final maturity shall be the same as the Maturity Date applicable to the applicable Revolving Credit Facility, (2) no amortization or mandatory commitment reduction prior to the Latest Maturity Date applicable to the Revolving Credit Facility shall be required and (3) the terms and documentation applicable to the Revolving Credit Facility shall apply (other than with respect to pricing (except with respect to the Applicable Rate and any interest rate floors) and fees),

(B) in the case of any New Revolving Facility, (1) the final maturity shall be no earlier than the Latest Maturity Date applicable to the Revolving Credit Facility, (2) no amortization or mandatory commitment reduction prior to the Latest Maturity Date applicable to the Revolving Credit Facility shall be required and (3) shall have terms that are substantially the same as those applicable to the Revolving Credit Facility (other than with respect to pricing and fees) or that are otherwise reasonably acceptable to the Administrative Agent (it being understood that certain provisions regarding prepayment, borrowing, participation and commitment reduction may differ and that any terms that are applicable only after the Latest Maturity Date of the then existing Revolving Credit Facility shall be deemed acceptable to the Administrative Agent),

(C) in the case of an increase to an existing Term Loan Tranche, (1) the final maturity shall be the same as the Maturity Date applicable to the applicable Term Loan Tranche, (2) the amortization shall be as described under clause (c) above and (3) the terms and documentation applicable to the applicable existing Term Loan Tranche shall apply (other than with respect to pricing (except with respect to the Applicable Rate and any interest rate floors) and fees),

(D) in the case of any New Term Facility, the final maturity of the New Term Loans thereunder shall be no earlier than the Latest Maturity Date for, and such New Term Loans shall not have a Weighted Average Life to Maturity shorter than the remaining Weighted Average Life to Maturity of, the then outstanding Initial Term Loans; *provided* that (x) Extendable Bridge Loans/Interim Debt and (y) an aggregate principal amount of New Term Loans under such New Term Facility not in excess of the maximum aggregate principal amount then-permitted to be incurred in reliance on the Inside Maturity Basket, in each case, may have a maturity date earlier than the Latest Maturity Date for the then outstanding Initial Term Loans and the Weighted Average Life to Maturity thereof may be shorter than the remaining Weighted Average Life to Maturity of the then outstanding Initial Term Loans, and

(E) (to the extent the initial Facilities are then outstanding) in the case of any New Term Facility or New Revolving Facility, the terms of such facility (other than pricing, final maturity and Weighted Average Life to Maturity), taken as a whole, shall not be materially more restrictive than the terms of the initial Term Facility or the initial Revolving Facility, respectively, as determined in good faith by the Company (but excluding any terms (x) that are added in the applicable initial Facility for the benefit of the Lenders thereunder pursuant to an amendment hereto (with no consent of the Lenders being required), (y) that are only applicable to periods after the latest final maturity date of the applicable initial Facility existing at the time of the incurrence of such facility or (z) reflect market terms and conditions (as determined by the Company in good faith) at the time of incurrence); and

(iii) except as set forth in subclause (f)(iv) below with respect to the All-in Yield applicable to any New Term Facility described therein and as set forth in subclause (d)(ii)(D) above with respect to final maturity and Weighted Average Life to Maturity of any New Term Facility, and subject to subclause (d)(ii)(E), any such New Term Facility or New Revolving Facility shall have such terms as are agreed to by the applicable Borrower and the Incremental Arranger (including with respect to the currency, interest rate margins, OID, upfront fees (if any), interest rate "floors" (if any) and amortization schedule of such New Term Facility or New Revolving Facility, as applicable);

(iv) to the extent reasonably requested by the Incremental Arranger and expressly set forth in the documentation relating to such New Loan Commitments, the Incremental Arranger 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, Section 6.14 and/or Section 6.16 with respect to the applicable Borrower and each material 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); and

(v) subject to Section 1.02(i), except to the extent otherwise agreed by the applicable Incremental Arranger and the Borrower, no Revolving Credit Commitment Increase, Term Commitment Increase, New Term Commitment or New Revolving Commitment shall become effective unless (x) the representations and warranties of each the Company and each other Loan Party 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 effectiveness, 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 except that for purpose of this clause (v), 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 effectiveness or (y) in the event that such Revolving Credit Commitment Increase, Term Commitment Increase, New Term Commitment or New Revolving Commitment is used to finance a Limited Condition Transaction, the Specified Representations, and in the case of any Limited Condition Transaction consisting of an acquisition, those representations of the seller or the target company (as applicable) included in the acquisition agreement related to such acquisition that are material to the interests of the Lenders in respect of such Revolving Credit Commitment Increase, Term Commitment Increase, New Term Commitment or New Revolving Commitment and only to the extent that the Borrower or its applicable Subsidiary has the right to terminate its obligations under such acquisition agreement as a result of a failure of such representations to be accurate, 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 effectiveness, 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.

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 applicable Borrower.

Notwithstanding the foregoing, (x) to the extent any terms of any Term Commitment Increase, Revolving Credit Commitment Increase, New Term Facility or New Revolving Facility are more favorable (with respect to the lenders thereunder) than the comparable terms hereunder (with respect to the Lenders under the Initial Term Loans or the Initial Revolving Tranche, as applicable), such terms (if favorable to the applicable Lenders) may be, solely at the request of the Company, incorporated into this Agreement (or any other applicable Loan Document) for the benefit of the applicable Lenders (to the extent applicable to such Lender) without further amendment requirements (it being agreed and understood, for the avoidance of doubt, that, at the option of the Company and with the

consent of the Administrative Agent (not to be unreasonably withheld or delayed), the Company may, but shall not be required to, increase the Applicable Rate or amortization payments relating to any existing Term Facility to bring such Applicable Rate in line with the relevant Term Commitment Increase or New Term Facility to achieve fungibility with such existing Term Facility) and (y) such terms other than the terms described in clause (x) above may, solely at the request of the Company, be incorporated into this Agreement (or any other applicable Loan Document) for the benefit of the applicable Lenders (to the extent applicable to such Lender) without further amendment requirements if reasonably satisfactory to the Company, the Incremental Arranger and the Administrative Agent.

To the extent a Borrower establishes a New Revolving Facility, then the Administrative Agent and such Borrower shall be permitted to amend this Agreement 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 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) Any New Revolving Facility and New Term Facility, shall comply with the Incremental Debt Lien/Guarantee Parameters,

(ii) the New Term Facility or New Revolving Facility, as applicable, shall, for purposes of prepayments, be treated substantially the same as (and in any event no more favorably than) the Initial Term Loans or Initial Revolving Tranche, as applicable, unless the applicable Borrower otherwise elects (but in any event no more favorably than the Initial Term Loans or the Initial Revolving Tranche, as applicable), unless any such more favorable terms are applicable only after the Latest Maturity Date of the Initial Term Loans and the Initial Revolving Tranche,

(iii) any New Term Facility that is secured by a lien on the Collateral on a *pari passu* basis with the Initial Term Loans shall share ratably (or on a lesser basis) with respect to any mandatory prepayments of the Initial Term Loans (other than mandatory prepayments resulting from a refinancing of any Facility, which may be applied exclusively to the Facility being refinanced) and

(iv) solely with respect to any floating rate term loans denominated in Dollars that are incurred on or prior to the date that is twelve months after the Closing Date under a New Term Facility that is (x) *pari passu* in right of payment with the Initial Term Loans and (y) secured by a Lien on the Collateral on a *pari passu* basis with the Initial Term Loans, the All-in Yield payable by the applicable Borrower in respect of such New Term Facility shall not be more than 50 basis points higher than the All-in Yield payable by the Borrower in respect of the Initial Term Loans unless the interest rate margin applicable to the Initial Term Loans is increased by an amount necessary so that the difference between the All-in Yield payable by the applicable Borrower in respect of such New Term Facility and the All-in Yield payable by the Borrower in respect of the Initial Term Loans is no greater than 50 basis points (this clause (iv), the "**MFN Provision**"); *provided*, that (i) any increase in All-in Yield with respect to existing Initial Term Loans due to the application of an interest rate "floor" to any New Term Facility greater than the interest rate "floor" applicable to such existing Initial Term Loans shall be effected solely through an increase in the interest rate "floor" applicable to such Initial Term Loans and (ii) for the avoidance of doubt, if such Initial Term Loans are outstanding in the form of a U.S. Dollar-denominated Tranche and one or more non-U.S. Dollar-denominated Tranches are outstanding at such time, then this clause (iv) shall only apply to such Initial Term Loans outstanding in the form of a U.S. Dollar-denominated Tranche.

(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 shall be reflected therein.

(h) To the extent any New Revolving Facility or New Term Facility shall be denominated in an Alternative Currency, this Agreement and the other Loan Documents shall be amended to the extent necessary or appropriate to provide for the administrative and operational provisions applicable to such Alternative Currency, in each case as are reasonably satisfactory to the Administrative Agent.

Section 2.15 Incremental Equivalent Debt.

(a) Any Loan Party may from time to time after the Closing Date issue one or more series of senior secured, senior unsecured, senior subordinated or subordinated notes, loans or Extendable Bridge Loans/Interim Debt (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) no Event of Default (subject to Section 1.02(i)) would exist immediately after giving effect to any such incurrence of Incremental Equivalent Debt and (ii) any such incurrence of Incremental Equivalent Debt shall be in a minimum amount of the lesser of (x) $5,000,000 (or the equivalent Dollar Amount) and (y) the entire amount that may be requested under this Section 2.15; *provided*, *further*, that:

(A) unless the applicable Borrower elects otherwise, (x) the Borrower shall be deemed to have used amounts under the Ratio-Based Incremental Facility (to the extent compliant therewith) prior to using amounts under the Effective Extension Incremental Facility, the Prepayment-Based Incremental Facility or the Cash-Capped Incremental Facility and (y) the Borrower shall be deemed to have used the Prepayment-Based Incremental Facility prior to utilization of the Cash-Capped Incremental Facility;

(B) New Loan Commitments pursuant to Section 2.14, Incremental Equivalent Debt pursuant to this Section 2.15 and Ratio Debt may be incurred substantially concurrently under the Ratio-Based Incremental Facility (to the extent compliant therewith), the Effective Extension Incremental Facility, the Prepayment-Based Incremental Facility and the Cash-Capped Incremental Facility or any combination of any of the foregoing, and proceeds from any such incurrence may be utilized in a single transaction or series of related transactions by, unless the applicable Borrower elects otherwise, first, calculating the incurrence under the Ratio-Based Incremental Facility (without inclusion of (x) any amounts incurred substantially concurrently pursuant to the Prepayment-Based Incremental Facility or the Cash-Capped Incremental Facility, (y) any amounts incurred substantially concurrently under any fixed basket under Section 7.01 or (z) any revolving credit loans incurred substantially concurrently with such single transaction or series of related transactions) 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 Effective Extension Incremental Facility and the Cash-Capped Incremental Facility, as applicable;

(C) all or any portion of Indebtedness originally designated as incurred under the Prepayment-Based Incremental Facility or the Cash-Capped Incremental Facility shall automatically cease to be deemed incurred under the Prepayment-Based Incremental Facility or the Cash-Capped Incremental Facility and shall instead be deemed incurred under the Ratio-Based Incremental Facility from and after the first date on which the applicable Borrower 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 (for the avoidance of doubt, which determination shall be made without duplication of such Indebtedness originally designated as incurred under the Prepayment-Based Incremental Facility or the Cash-Capped Incremental Facility) (which, for the avoidance of doubt, shall have the effect of increasing the Prepayment-Based Incremental Facility and/or the Cash-Capped Incremental Facility, as applicable, by all or such portion, as applicable, of the aggregate principal amount of such Indebtedness); and

(D) solely for the purpose of cash netting in calculating the Consolidated First Lien Net Leverage Ratio, the Consolidated Senior 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, to the extent not promptly applied, any cash proceeds of any New Loan Commitments incurred pursuant to Section 2.14, any Incremental Equivalent Debt Incurred pursuant to this Section 2.15, in each case, incurred at such test date shall be excluded for purposes of calculating cash or Cash Equivalents.

The applicable Borrower 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) (i) Any Incremental Equivalent Debt shall comply with the Incremental Debt Lien/Guarantee Parameters,

(ii) the final maturity of any Incremental Equivalent Debt shall be no earlier than the Latest Maturity Date for, and such Incremental Equivalent Debt shall not have a Weighted Average Life to Maturity shorter than the remaining Weighted Average Life to Maturity of, the then outstanding Initial Term Loans; *provided* that (x) Extendable Bridge Loans/Interim Debt and (y) an aggregate principal amount of Incremental Equivalent Debt not in excess of the maximum aggregate principal amount then permitted to be incurred in reliance on the Inside Maturity Basket, in each case, may have a maturity date earlier than the Latest Maturity Date for the then outstanding Initial Term Loans and the Weighted Average Life to Maturity thereof may be shorter than the remaining Weighted Average Life to Maturity of the then outstanding Initial Term Loans and

(iii) any Incremental Equivalent Debt (other than any Extendable Bridge Loans/Interim Debt) shall not be subject to any mandatory redemption or prepayment provisions or rights, except to the extent any such mandatory redemption or prepayment is required to be applied pro rata (or greater than pro rata) to the Initial Term Loans and other Incremental Equivalent Debt that is secured by a lien on the Collateral on a *pari passu* basis with the Initial Term Loans. 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 applicable Borrower.

(c) The Lenders hereby authorize the Incremental Equivalent Debt Arranger and the Administrative Agent (and the Lenders hereby authorize the Incremental Equivalent Debt Arranger and the Administrative Agent to execute and deliver such amendments) to enter into amendments to this Agreement and the other Loan Documents with the applicable Borrower 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 Incremental Equivalent Debt Arranger, the Administrative Agent and such Borrower 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 shall be reflected therein.

Section 2.16 Cash Collateral.

(a) Upon the request of the Administrative Agent or the applicable L/C Issuer (i) if the applicable L/C Issuer has honored any full or partial drawing request under any Letter of Credit and such drawing has resulted in an L/C Borrowing or (ii) if, as of the Letter of Credit Sublimit Expiration Date, any L/C Obligation for any reason remains outstanding, the applicable Borrower shall, in each case, promptly deliver to the Administrative Agent Cash Collateral in an amount sufficient to cover 103.0% 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 applicable Borrower shall deliver to the Administrative Agent Cash Collateral in an amount sufficient to cover 103.0% 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 the Collateral Agent (or other financial institution selected by any of them). The Borrower, and to the extent provided by any Revolving Credit Lender, such Revolving Credit Lender, hereby grant to (and subject to the control of) the Administrative Agent and the Collateral Agent, for the benefit of the Administrative Agent, 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 applicable Borrower 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)(viii))) 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 Section 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) That 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 that 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 that 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 that Defaulting Lender to the Administrative Agent hereunder; second, to the payment on a pro rata basis of any amounts owing by that Defaulting Lender to the L/C Issuers hereunder; third, if so reasonably determined by the Administrative Agent or reasonably requested by the applicable L/C Issuer, to be held as Cash Collateral for future funding obligations of that Defaulting Lender of any participation in any Letter of Credit; fourth, as the applicable

Borrower may request (so long as no Default or Event of Default exists), to the funding of any Loan in respect of which that 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 Company, to be held in a non-interest bearing deposit account and released in order to satisfy obligations of that Defaulting Lender to fund Loans 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 that Defaulting Lender as a result of that Defaulting Lender's breach of its obligations under this Agreement; seventh, so long as no Default or Event of Default pursuant to Section 8.01(a), (f) or (g) exists, to the payment of any amounts owing to the Company or any of its Subsidiaries as a result of any non-appealable judgment of a court of competent jurisdiction obtained by the Company or any of its Subsidiaries against that Defaulting Lender as a result of that Defaulting Lender's breach of its obligations under this Agreement; and eighth, to that 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 that 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, that Defaulting Lender. 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 that Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) That Defaulting Lender (x) shall not be entitled to receive any commitment fee pursuant to Section 2.09(a) for any period during which that Lender is a Defaulting Lender (and the applicable Borrower 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 that non-Defaulting Lender *minus* (2) the aggregate Outstanding Amount of the Loans under such Revolving Tranche of that Revolving Credit Lender. No reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender arising from that Lender having become a Defaulting Lender, including any claim of a Non-Defaulting Lender as a result of such Non-Defaulting Lender's increased exposure following such reallocation.

(b) If the Company, 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 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 any Borrower while that 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) A 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 such new term facilities, "**Specified Refinancing Term Facilities**"; 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 such Borrower, 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 such Borrower, 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 then in effect that was incurred under Section 2.14, in each case pursuant to a Refinancing Amendment;

provided that:

(i) such Specified Refinancing Debt shall comply with the Incremental Debt Lien/Guarantee Parameters;

(ii) such Specified Refinancing Debt shall have such pricing and optional prepayment terms as may be agreed by the applicable Borrower and the applicable Lenders thereof;

(iii) such Specified Refinancing Debt (x) to the extent constituting Specified Refinancing Revolving Credit Commitments, shall not have a maturity date (or have mandatory commitment reductions or amortization) that is prior to the scheduled Maturity Date of the applicable Revolving Tranche being refinanced and (y) to the extent constituting Specified Refinancing Term Loans, shall have a maturity date that is not prior to the date that is the Latest 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 Term Loans being refinanced; *provided* that (x) Extendable Bridge Loans/Interim Debt and (y) an aggregate principal amount of Specified Refinancing Term Loans not in excess of the maximum aggregate principal amount then permitted to be incurred in reliance on the Inside Maturity Basket, in each case, may have a maturity date that is earlier than the Latest Maturity Date of the Term Loans being refinanced and the Weighted Average Life to Maturity thereof may be shorter than the remaining Weighted Average Life to Maturity of the Term Loans being refinanced;

(iv) such Specified Refinancing Debt, in the case of Specified Refinancing Term Loans, shall share ratably in any mandatory prepayments of the then outstanding Initial Term Loans pursuant to Section 2.05 (or otherwise provide for more favorable prepayment treatment for the then outstanding Initial Term Loans than the Specified Refinancing Term Loans);

(v) such Specified Refinancing Debt, in the case of Specified Refinancing Revolving Credit Commitments, shall provide that 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; and

(vi) 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 or Commitments being so refinanced (or less than the pro rata prepayment of outstanding Loans made by any Term Lenders or the Revolving Credit Lenders, as applicable, that will be lenders of the Specified Refinancing Debt, as approved by such Term Lenders or the Revolving Credit Lenders, as applicable); *provided* that 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 shall not have a principal or commitment amount (or accreted value) greater than the Loans or Commitments 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 applicable Borrower 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 applicable Borrower's sole discretion, and the applicable Borrower will not be obligated to allocate any Specified Refinancing Debt to any Lender.

(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 Specified Refinancing Agent and expressly set forth in the documentation relating to such Specified Refinancing Debt, receipt by the Specified Refinancing Agent of legal opinions, board resolutions, officers' certificates and/or reaffirmation agreements with respect to the applicable Borrower 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 Sections 6.12,

6.14 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 Specified Refinancing Agent to enter into amendments to this Agreement and the other Loan Documents with the applicable Borrower 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 Specified Refinancing Agent and such Borrower 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 than $5,000,000 (or the equivalent Dollar Amount) and (y) an integral multiple of $1,000,000 (or the equivalent Dollar Amount) in excess thereof. Any Refinancing Amendment may provide for the issuance of Letters of Credit for the account of the applicable Borrower 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 applicable Borrower, 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 Specified Refinancing Agent and the applicable Borrower, 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 shall be reflected therein.

Section 2.19 Extension of Term Loans and Revolving Credit Commitments.

(a) A Borrower 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 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 2.19; *provided* that (i) any such request shall be made by the applicable Borrower to certain Lenders specified by such Borrower with Term Loans or Revolving Credit Commitments, as applicable, with a like maturity date (whether under one or more Tranches) on a pro rata basis (based on the aggregate outstanding principal amount of the Term Loans or on the aggregate Revolving Credit Commitments, as applicable) and (ii) any applicable Minimum Extension Condition shall be satisfied unless waived by such Borrower in its sole discretion. In order to establish any Extended Tranche, the applicable 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 that (w) 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, (x) (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), (y) in the case of any Extended Term Tranche, such Extended Term Tranche shall share ratably in any mandatory prepayments of the then outstanding Initial Term Loans pursuant to Section 2.05 (or otherwise provide for more favorable mandatory prepayment treatment for the then outstanding Initial Term Loans than such Extended Term Tranche) and (z) in the case of any Extended Term Tranche (other than any Extended Term Tranche in an aggregate principal amount not in excess of the maximum aggregate principal amount then permitted to be incurred in reliance on the Inside Maturity Basket), 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 2.19 or otherwise, assignments and participations of Extended Tranches shall be governed by the same or, at the applicable Borrower's 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 and the commitment of any L/C Issuer to issue or maintain Letters of Credit shall not be extended pursuant to an extension of any Existing Revolving Tranche pursuant to this Section 2.19 without its written consent. 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 applicable Borrower 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 applicable, 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 2.19.

(b) The applicable 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 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 2.19 (each, an "**Extension**"), the applicable Borrower 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 2.19. Such Borrower may amend, revoke or replace an Extension Request pursuant to procedures reasonably acceptable to the Extended Loans Agent at any time prior to the date 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 2.19(a), or, in the case of Extended Term Tranches, amortization rates referenced in clause (z) of Section 2.19(a), and which, in each case, except to the extent expressly contemplated by the last sentence of this Section 2.19(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 Extended Loans Agent, and the Extending Lenders. Subject to the requirements of this Section 2.19 and without limiting the generality or applicability of Section 10.01 to any Section 2.19 Additional Amendments (as defined below), 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 2.19 Additional Amendment**") to this Agreement and the other Loan Documents; *provided* that such Section 2.19 Additional Amendments do not become effective prior to the time that such Section 2.19 Additional Amendments have been consented to (including, without limitation, 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 2.19 Additional Amendments to become effective in accordance with Section 10.01; *provided*, *further*, that such Extended Tranche shall comply with the Incremental Debt Lien/Guarantee Parameters. 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 applicable Borrower and the Extended Loans Agent, to effect the provisions of this Section 2.19; *provided* that the foregoing shall not constitute a consent on behalf of any Lender to the terms of any Section 2.19 Additional Amendment. The Lenders hereby authorize the Extended Loans Agent to enter into amendments to this Agreement and the other Loan Documents with the applicable Borrower 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 Extended Loans Agent and such Borrower 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 2.19.

(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 applicable Borrower 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 applicable Borrower 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 applicable Borrower 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 applicable Borrower 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 2.19, 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 (A) the date on which the replacement Lender executes and delivers such Assignment and Assumption and (B) the date as of which all obligations of the applicable Borrower 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 applicable Borrower 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 applicable 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 applicable Borrower and the Extended Loans Agent at least ten Business Days prior to such Designation Date (or such shorter period as the Administrative Agent may agree in its reasonable discretion); *provided*, *further*, that no greater amount shall be paid by or on behalf of the applicable Borrower or any of its Affiliates to any such Non-Extending Lender as consideration for its extension into such Extended Tranche than was paid to any Extending Lender as consideration for its Extension into such Extended Tranche. 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 a Borrower pursuant to this Section 2.19, (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 applicable 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 such Borrower's sole discretion and may be waived by such 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 2.19 (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, without limitation, 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 2.19.

Section 2.20 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 a Borrower, a Borrower 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 the applicable 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 other amounts referred to in clause (3) of the definition of "Refinancing Indebtedness" 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 applicable Borrower pursuant to any Permitted Debt Exchange shall automatically be cancelled and retired by the applicable Borrower 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 applicable Borrower 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 applicable Borrower pursuant to such Permitted Debt Exchange Offer, then the applicable Borrower 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 applicable Borrower and the Exchange Agent and (vi) any applicable Minimum Tender Condition (as defined below) shall be satisfied.

(b) With respect to all Permitted Debt Exchanges effected by a Borrower pursuant to this Section 2.20, (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 $5,000,000 (or the equivalent Dollar Amount) in aggregate principal amount of Term Loans; *provided* that subject to the foregoing clause (ii) the applicable Borrower 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 such Borrower's discretion) of Term Loans of any or all applicable classes be tendered.

(c) In connection with each Permitted Debt Exchange, the applicable Borrower and the Exchange Agent shall mutually agree to such procedures as may be necessary or advisable to accomplish the purposes of this Section 2.20 and without conflict with Section 2.20(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 such Borrower and the Exchange Agent) of time following the date on which the Permitted Debt Exchange Offer is made.

(d) The applicable Borrower 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 such Borrower's compliance with such laws and regulations in connection with any Permitted Debt Exchange (other than such Borrower's reliance on any certificate delivered pursuant to Section 2.20(a) above for which 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 Exchange Act, 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 2.20, any comments to such documentation reasonably requested by the Administrative Agent shall be reflected therein.

Section 2.21 Additional Alternative Currencies.

(a) A Borrower may from time to time request that Revolving Credit Loans be made and/or Letters of Credit be issued in a currency other than those specifically listed in the definition of "Alternative Currency"; *provided* that such requested currency is a lawful currency that is readily available and freely transferable and convertible into Dollars. In the case of any such request with respect to the making of Revolving Credit Loans, such request shall be subject to the approval of the Administrative Agent and the Revolving Credit Lenders; and, in the case of any such request with respect to the issuance of Letters of Credit, such request shall be subject to the approval of the Administrative Agent and the applicable L/C Issuer.

(b) Any such request shall be made to the Administrative Agent not later than 11:00 a.m. ten Business Days prior to the date of the desired Borrowing (or such other time or date as may be agreed by the Administrative Agent and, in the case of any such request pertaining to Letters of Credit, the relevant L/C Issuer, in its or their sole discretion). In the case of any such request pertaining to Revolving Credit Loans, the Administrative Agent shall promptly notify each Revolving Credit Lender thereof and in the case of any such request pertaining to Letters of Credit, the Administrative Agent shall promptly notify the relevant L/C Issuer. Each such Revolving Credit Lender (in the case of any such request pertaining to Revolving Credit Loans) or the L/C Issuer (in the case of a request pertaining to Letters of Credit) shall notify the Administrative Agent not later than 11:00 a.m. five Business Days after receipt of such request whether it consents, in its sole discretion, to the making of Revolving Credit Loans or the issuance of Letters of Credit, as applicable, in the requested currency.

(c) Any failure by any Revolving Credit Lender or any L/C Issuer, as applicable, to respond to such request within the time period specified in the preceding clause (b) shall be deemed to be a refusal by such Revolving Credit Lender or L/C Issuer, as applicable, to permit Revolving Credit Loans to be made or Letters of Credit to be issued in such requested currency. If the Administrative Agent and all the Revolving Credit Lenders that would be obligated to make Revolving Credit Loans denominated in such requested currency consent to making Revolving Credit Loans in such requested currency, the Administrative Agent shall so notify the applicable Borrower and such currency shall thereupon be deemed for all purposes to be an Alternative Currency hereunder for purposes of any Borrowings of Revolving Credit Loans; and if the Administrative Agent and the relevant L/C Issuer consent to the issuance of Letters of Credit in such requested currency, the Administrative Agent shall so notify the applicable Borrower and such currency shall thereupon be deemed for all purposes to be an Alternative Currency hereunder for purposes of any Letter of Credit issuances. If the Administrative Agent shall fail to obtain the requisite consent to any request for an additional currency under this Section 2.21, the Administrative Agent shall promptly so notify the applicable Borrower.

ARTICLE III

TAXES, INCREASED COSTS PROTECTION AND ILLEGALITY

Section 3.01 Taxes.

(a) All payments by or on account of any obligation of any Borrower or any other Loan Party 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 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 Loan Party shall be increased as necessary so that after all such deductions or withholdings for Indemnified Taxes have been made (including such deductions and withholdings for Indemnified Taxes applicable to additional sums payable under this Section 3.01) the Administrative Agent (for amounts paid to the Administrative Agent in its own right) or Lender receives an amount equal to the sum it would have received had no such deduction or withholding for Indemnified Taxes been made.

(b) In addition but without duplication, the Loan Parties 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) Without duplication of amounts paid pursuant to Section 3.01(a) or Section 3.01(b), the Loan Parties shall jointly and severally indemnify each Recipient, within 30 days after receipt by the applicable Loan Party of 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 or for the account of 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. A certificate setting forth in reasonable detail the calculation of the amount of such payment or liability delivered to the applicable Borrower 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) [Reserved].

(e) As soon as reasonably practicable after any payment of Taxes by any Loan Party to a Governmental Authority pursuant to this Section 3.01, such Loan Party shall 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.

(f) If any Recipient determines, in its sole discretion exercised in good faith, that it has received a refund of any Indemnified 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 under this Section 3.01 with respect to the Indemnified Taxes giving rise to such refund), net of all reasonable 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 (which request shall include a copy of any notice of assessment or other evidence of any requirement to repay such refund, *provided*, *that*, such Recipient may redact any information therein that such Recipient deems confidential), shall promptly repay to such indemnified party the amount paid over pursuant to this Section 3.01(f) (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 Section 3.01(f), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this Section 3.01(f) 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 Section 3.01(f) 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.

(g) [Reserved].

(h) (i) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to any payments made under any Loan Document shall deliver to the applicable Borrower and the Administrative Agent, at the time or times reasonably requested by such Borrower or the Administrative Agent and at the time or times prescribed by applicable Law, such properly completed and executed documentation reasonably requested by such Borrower or the Administrative Agent or prescribed by applicable Law as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by such Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable Law or reasonably requested by such Borrower or the Administrative Agent as will enable such Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements.

(ii) Without limiting the generality of the foregoing,

(A) any Lender that is a U.S. Person shall deliver to the Borrower and the Administrative Agent (in such number as shall be requested by the recipient) on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent) a properly completed and duly executed IRS Form W-9 (or any successor form) certifying that such Lender is exempt from U.S. federal backup withholding Tax;

(B) any Non-U.S. Lender shall, to the extent it is legally eligible to do so, deliver to the Borrower and the Administrative Agent (in such number as shall be requested by the recipient) on or prior to the date on which such Non-U.S. Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower 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, a properly completed and duly executed IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable (or any applicable successor form), claiming an exemption from, or reduction of, U.S. federal withholding Tax pursuant to such tax treaty;

(2) in the case of a Non-U.S. Lender claiming that its extension of credit will generate U.S. effectively connected income, a properly completed and duly executed 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 I-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 Borrower within the meaning of Section 881(c)(3)(B) of the Code, a "controlled foreign corporation" that is related to the Borrower described in Section 881(c)(3)(C) of the Code and that no payments under 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) a properly completed and duly executed IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable (or any applicable 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), a properly completed and duly executed IRS Form W-8IMY (or any successor form), accompanied by a properly completed and duly executed IRS Form W-8ECI, IRS Form W-8BEN, IRS Form W-8BEN-E, as applicable (or any applicable successor form), a certificate substantially in the form of Exhibit I-2 or Exhibit I-3, IRS Form W-9 (or any successor form), 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 such direct and indirect partner(s);

(C) any Non-U.S. Lender shall, to the extent it is legally eligible to do so, deliver to the Borrower or the Administrative Agent (in such number as shall be requested by the recipient) on or prior to the date on which such Non-U.S. Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), any properly completed and duly executed 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 Borrower or the Administrative Agent to determine the withholding or deduction required to be made;

(D) if a payment made to a Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender 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 Lender shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by Law and at such time or times reasonably

requested by the Borrower 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 Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to (i) comply with their obligations under FATCA and (ii) determine whether such Lender has complied with such Recipient's obligations under FATCA or to determine the amount to deduct and withhold from such payment. For purposes of this Section 3.01(ii)(D), "FATCA" shall include any amendments made to FATCA after the date of this Agreement; and

(E) the Administrative Agent, and any successor or supplemental Administrative Agent, shall deliver to the Borrower (in such number 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 Borrower) either a properly completed and duly executed (i) if it is a "United States person" (as defined in Section 7701(a)(30) of the Code), IRS Form W-9 (or any successor form) or (ii) if it is not a "United States person", a U.S. branch withholding certificate on IRS Form W-8IMY (or any successor form), together with the required accompanying documentation, evidencing its agreement with the Borrower to be treated as a U.S. person (with respect to amounts received on account of any Lender) and IRS Form W-8ECI (with respect to amounts received on its own account), with the effect that, in either case, the Borrower will be entitled to make payments hereunder to the Administrative Agent without withholding or deduction on account of U.S. federal withholding Tax. Notwithstanding any provision of this Section 3.01(h), the Administrative Agent shall not be required to deliver any form or other documentation that the Administrative Agent is not legally eligible to deliver as a result of a Change in Law after the date of this Agreement.

Each Recipient agrees that if any documentation it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall promptly update and deliver such documentation to the Borrower and the Administrative Agent or promptly notify the Borrower and the Administrative Agent in writing of its legal ineligibility to do so. Notwithstanding any other provision of this Section 3.01(h), no Lender shall be required to provide any documentation that such Lender is not legally eligible to provide.

Each Lender hereby authorizes the Administrative Agent to deliver to the Loan Parties and to any successor Administrative Agent any documentation provided by such Lender to the Administrative Agent pursuant to this Section 3.01(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 and the repayment, satisfaction or discharge of all other Obligations.

(j) For the avoidance of doubt, for purposes of this Section 3.01, the term "Lender" shall include any L/C Issuer, and the term "applicable Law" includes FATCA.

Section 3.02 Inability to Determine Rates. Subject to Section 3.04, if, on or prior to the first day of any Interest Period for any SOFR Loan or Eurocurrency Rate Loan:

(a) the Administrative Agent determines (which determination shall be conclusive and binding absent manifest error) that "Term SOFR" or the "Adjusted Eurocurrency Rate" cannot be determined pursuant to the definition thereof, or

(b) the Required Lenders determine that for any reason in connection with any request for a SOFR Loan or Eurocurrency Rate Loan or a conversion thereto or a continuation thereof that Term SOFR or the Adjusted Eurocurrency Rate, as applicable, for any requested Interest Period with respect to a proposed SOFR Loan or Eurocurrency Rate Loan, as applicable, does not adequately and fairly reflect the cost to such Lenders of making and maintaining such Loan, and the Required Lenders have provided notice of such determination to the Administrative Agent,

the Administrative Agent will promptly so notify the Borrower and each Lender.

Upon notice thereof by the Administrative Agent to the Borrower, any obligation of the Lenders to make SOFR Loans or Eurocurrency Rate Loans, and any right of the Borrower to continue SOFR Loans or Eurocurrency Rate Loans or to convert ABR Loans to SOFR Loans or Eurocurrency Rate Loans, shall be suspended (to the extent of the affected SOFR Loans or Eurocurrency Rate Loans or affected Interest Periods) until the Administrative Agent (with respect to clause (b), at the instruction of the Required Lenders) revokes such notice. Upon receipt of such notice, (i) the Borrower may revoke any pending request for a borrowing of, conversion to or continuation of SOFR Loans or Eurocurrency Rate Loans (to the extent of the affected SOFR Loans or Eurocurrency Rate Loans or affected Interest Periods) or, failing that, the Borrower will be deemed to have converted any such request into a request for a Borrowing of or conversion to ABR Loans denominated in Dollars in the amount specified therein (or, in the case of any Eurocurrency Rate Loans, in an amount equal to the Dollar equivalent of the applicable Alternative Currency) and (ii) any outstanding affected SOFR Loans or Eurocurrency Rate Loans will be deemed to have been converted into ABR Loans at the end of the applicable Interest Period (in the case of any Eurocurrency Rate Loans, in an amount equal to the Dollar equivalent of the applicable Alternative Currency). Upon any such conversion, the Borrower shall also pay accrued interest on the amount so converted. Subject to Section 3.04, if the Administrative Agent determines (which determination shall be conclusive and binding absent manifest error) that "Term SOFR" cannot be determined pursuant to the definition thereof on any given day, the interest rate on ABR Loans shall be determined by the Administrative Agent without reference to clause (c) of the definition of "ABR" until the Administrative Agent revokes such determination.

Section 3.03 Illegality. If any Lender reasonably determines that 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 the Term SOFR Reference Rate or the Eurocurrency Rate (whether denominated in Dollars or an Alternative Currency), or to determine or charge interest rates based upon Term SOFR or the Adjusted Eurocurrency Rate (whether denominated in Dollars or an Alternative Currency), or any Governmental Authority has imposed material restrictions on the authority of such Lender to purchase or sell, or to take deposits of, Dollars or an Alternative Currency in the applicable interbank market, then, on notice thereof by such Lender to the Borrower through the Administrative Agent, (i) any obligation of such Lender to make or continue SOFR Loans or Eurocurrency Rate Loans in the affected currency or currencies or to convert ABR Loans to SOFR Loans shall be suspended and (ii) if such notice asserts the illegality of such Lender making or maintaining ABR Loans, the interest rate on which is determined by reference to the Term SOFR component of the ABR, the interest rate on which ABR Loans of such Lender, shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Term SOFR component of the ABR, in each case until such Lender notifies the Administrative Agent and the Borrower that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, the Borrower shall, upon demand from such Lender (with a copy to the Administrative Agent), (A) if applicable and such Lender's SOFR Loans are denominated in Dollars, prepay or convert all of such Lender's SOFR Loans to ABR Loans (the interest rate on which ABR Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Term SOFR component of the ABR) or (B) if applicable and such Lender's Eurocurrency Rate Loans are denominated in an Alternative Currency,

prepay all of such Lender's Eurocurrency Rate Loans (the interest rate with respect to such Eurocurrency Rate Loans shall be determined by an alternative rate mutually acceptable to the Borrower and the applicable Revolving Credit Lenders), in each case, either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such Eurocurrency Rate Loans to such day, or promptly after such demand, if such Lender may not lawfully continue to maintain such Eurocurrency Rate Loans. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted and all amounts due, if any, in connection with such prepayment or conversion under Section 3.06. Each Lender agrees to designate a different Lending Office if such designation will avoid the need for such notice and will not, in the good faith judgment of such Lender, otherwise be materially disadvantageous to such Lender.

Section 3.04 Benchmark Replacement Setting(a) . USD Benchmark Replacement. Notwithstanding anything to the contrary herein or in any other Loan Document, if a Benchmark Transition Event and its related Benchmark Replacement Date have occurred prior any setting of the then-current Benchmark, then (x) if a Benchmark Replacement is determined in accordance with clause (a) 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 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 (b) 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. If the Benchmark Replacement is Daily Simple SOFR, all interest payments will be payable on a quarterly basis.

(b) Replacing Other Benchmarks. Notwithstanding anything to the contrary herein or in any other Loan Document, with respect to Obligations, interest, fees, commissions or other amounts denominated in or calculated with respect to an Alternative Currency, upon the occurrence of a Benchmark Transition Event with respect to any applicable Benchmark, the Administrative Agent and the Borrower may amend this Agreement to replace such Benchmark with a Benchmark Replacement. Any such amendment with respect to a Benchmark Transition Event will become effective at 5:00 p.m. (New York City time) on the fifth (5th) Business Day after the Administrative Agent has posted such proposed amendment to all Lenders and the Borrower so long as the Administrative Agent has not received, by such time, written notice of objection to such amendment from Lenders comprising the Required Lenders of the applicable Class. No replacement of a Benchmark with a Benchmark Replacement pursuant to this Section 3.04(c) will occur prior to the applicable Benchmark Replacement Date.

(c) Benchmark Replacement Conforming Changes. In connection with the use, administration, adoption or implementation of a Benchmark Replacement, the Administrative Agent will have the right to make Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Loan Document.

(d) Notices; Standards for Decisions and Determinations. The Administrative Agent will promptly notify the Borrower and the applicable Lenders of (i) the implementation of any Benchmark Replacement and (ii) the effectiveness of any Conforming Changes in connection with the use, administration, adoption or implementation of a Benchmark Replacement. The Administrative Agent will notify the Borrower of (x) the removal or reinstatement of any tenor of a Benchmark pursuant to clause (g) below and (y) the commencement of any Benchmark Unavailability Period. Any determination, decision or election that may be made by the Administrative Agent or, if applicable, 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.

(ii) Unavailability of Tenor of Benchmark. 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 any then-current Benchmark is a term rate (including the Term SOFR Reference Rate or any Adjusted Eurocurrency 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 not or will not be representative, then the Administrative Agent may modify the definition of "Interest Period" (or any similar or analogous definition) 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 not or will not be representative for a Benchmark (including a Benchmark Replacement), then the Administrative Agent may modify the definition of "Interest Period" (or any similar or analogous definition) for all Benchmark settings at or after such time to reinstate such previously removed tenor.

(e) Benchmark Unavailability Period. Upon the Borrower's receipt of notice of the commencement of a Benchmark Unavailability Period with respect to a given Benchmark:

(i) the Borrower may revoke any pending request for a SOFR Borrowing of, conversion to or continuation of SOFR Loans to be made, converted or continued during any Benchmark Unavailability Period and, failing that, the Borrower will be deemed to have converted any such request into a request for a Borrowing of or conversion to ABR Loans; and

(ii) the Borrower may revoke any pending request for a Borrowing of, conversion to or continuation of Eurocurrency Rate Loans in an Alternative Currency, in each case, to be made, converted or continued during any Benchmark Unavailability Period denominated in the applicable currency and, failing that, (x) in the case of any request for any such affected Eurocurrency Rate Borrowing in such Alternative Currency, then such request shall be ineffective and (y) any such outstanding affected Eurocurrency Rate Loans in such Alternative Currency, at the Borrower's election, shall either (1) be converted into ABR Loans denominated in Dollars (in an amount equal to the Dollar equivalent of such Alternative Currency) immediately or, in the case of Eurocurrency Rate Loans, at the end of the applicable Interest Period or (2) be prepaid in full immediately or, in the case of Eurocurrency Rate Loans, at the end of the applicable Interest Period; *provided* that, with respect to any Eurocurrency Rate Loan, if no election is made by the Borrower by the earlier of (x) the date that is three Business Days after receipt by the Borrower of such notice and (y) the last day of the current Interest Period for the applicable Eurocurrency Rate Loan, the Borrower shall be deemed to have elected clause (1) above.

Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted, together with any additional amounts required pursuant to Section 3.06. During a Benchmark Unavailability Period with respect to any Benchmark or at any time that a tenor for any then-current Benchmark is not an Available Tenor, the component of ABR based upon the then-current Benchmark that is the subject of such Benchmark Unavailability Period or such tenor for such Benchmark, as applicable, will not be used in any determination of ABR.

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 or (as applicable) 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 and (ii) Excluded Taxes), then within 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 Borrower 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 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 liquidity and such Lender's desired return on capital), then within 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 Borrower shall pay to such Lender such additional amounts as will compensate such Lender for such reduction.

(c) The Borrower 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 SOFR or Eurocurrency Rate funds or deposits, additional interest on the unpaid principal amount of each Eurocurrency Rate 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 SOFR Loans or Eurocurrency Rate 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 Borrower shall have received at least 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 15 days prior to the relevant Interest Payment Date, such additional interest or cost shall be due and payable 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 (other than foreign regulatory authorities in Switzerland), in each case pursuant to Basel III, shall, in each case, be deemed to have gone into effect after the date hereof and on the date enacted, adopted or issued.

Section 3.06 Funding Losses. Upon written demand of any Lender (with a copy to the Administrative Agent) from time to time, setting forth in reasonable detail the basis for calculating such compensation, the applicable Borrower shall promptly compensate such Lender for and hold such Lender harmless from any actual loss, cost or expense incurred by it as a result of:

(a) any continuation (if applicable), conversion, payment or prepayment of any SOFR Loans or Eurocurrency Rate Loan on a day other than the last day of the Interest Period for such Loan (whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise);

(b) any failure by such Borrower (for a reason other than the failure of such Lender to make a Loan or pursuant to a conditional notice that has been revoked in accordance with the terms of this Agreement) to prepay, borrow, continue or convert any SOFR Loan or Eurocurrency Rate Loan on the date or in the amount notified by such Borrower;

(c) any failure by such Borrower to make payment of any Loan or drawing under any Letter of Credit (or interest due thereon) denominated in an Alternative Currency on its scheduled due date or any payment of any Loan or drawing under any Letter of Credit (or interest due thereon) in a different currency from such Loan or Letter of Credit drawing; or

(d) any mandatory assignment of such Lender's SOFR Loans or Eurocurrency Rate Loans pursuant to Section 3.08 on a day other than the last day of the Interest Period for such Loans (including any loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain such Loan or from fees payable to terminate the deposits from which such funds were obtained but excluding anticipated profits). The applicable Borrower shall also pay any customary administrative fees charged by such Lender in connection with the foregoing.

Section 3.07 Matters Applicable to All Requests for Compensation. 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 Recipient's claim for compensation under Section 3.03, 3.04 or 3.05, the Loan Parties shall not be required to compensate such Recipient for any amount incurred more than 180 days prior to the date that such Recipient notifies the applicable Borrower 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 applicable Borrower is 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 a Borrower and at such Borrower's 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 or 3.05, as applicable, in the future and (ii) would not, in the reasonable judgment of such Lender or such L/C Issuer, as applicable, 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 such Borrower or rights of such Lender pursuant to Sections 3.01 and 3.05.

(c) If any Lender requests compensation by a Borrower under Section 3.05, such Borrower 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 SOFR Loans or Eurocurrency Rate Loans, as applicable, or to convert ABR Loans into SOFR Loans or Eurocurrency Rate 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(e) shall be applicable); *provided* that such suspension shall not affect the right of such Lender to receive the compensation so requested.

(d) If the obligation of any Lender to make or continue from one Interest Period to another any SOFR Loans or Eurocurrency Rate Loan, or to convert ABR Loans into SOFR Loans or Eurocurrency Rate Loans shall be suspended pursuant to Section 3.07(c) hereof, such Lender's SOFR Loans or Eurocurrency Rate Loans, as applicable, shall be automatically converted into ABR Loans on the last day(s) of the then current Interest Period(s) for such Eurocurrency Rate 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 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 SOFR Loans or Eurocurrency Rate Loans have been so converted, all payments and prepayments of principal that would otherwise be applied to such Lender's SOFR Loans or Eurocurrency Rate Loans shall be applied instead to its ABR Loans; and

(ii) all Loans that would otherwise be made or continued from one Interest Period to another by such Lender as SOFR Loans or Eurocurrency Rate Loans shall be made or continued instead as ABR Loans, and all ABR Loans of such Lender that would otherwise be converted into SOFR Loans or Eurocurrency Rate Loans shall remain as ABR Loans.

(e) If any Lender gives notice to a Borrower (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 SOFR Loans or Eurocurrency Rate Loans pursuant to this Section 3.07 no longer exist (which such Lender agrees to do promptly upon such circumstances ceasing to exist) at a time when SOFR Loans or Eurocurrency Rate Loans, as applicable, made by other Lenders are outstanding, such Lender's ABR Loans shall be automatically converted, on the first day(s) of the next succeeding Interest Period(s) for such outstanding SOFR Loans or Eurocurrency Rate Loans to the extent necessary so that, after giving effect thereto, all Loans held by the Lenders holding SOFR Loans or Eurocurrency Rate Loans, as applicable, 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 Section 3.03, 3.04 or 3.05 to the extent such Lender does not upon request certify that it is imposing such charges or requesting such compensation from borrowers (similarly situated to any applicable Borrower hereunder) under comparable syndicated credit facilities.

Section 3.08 Replacement of Lenders under Certain Circumstances.

(a) If at any time (i) any Borrower becomes obligated to pay additional amounts or indemnity payments described in Section 3.01 or 3.05 as a result of any condition described in such Sections or any Lender ceases to make SOFR Loans or Eurocurrency Rate Loans, as and if applicable, as a result of any condition described in Section 3.03 or 3.04, (ii) any Lender becomes a Defaulting Lender, (iii) any Lender becomes a Non-Consenting Lender (as defined below in this Section 3.08) or (iv) any Lender becomes a Non-Extending Lender (collectively, a "**Replaceable Lender**"), then a Borrower may, on three Business Days' prior written notice from such Borrower 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 the Lenders for consent), either (i) 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 such Borrower 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 neither the Administrative Agent nor any Lender shall have any obligation to such Borrower to find a replacement Lender or other such Person or (ii) so long as no Default or Event of Default shall have occurred and be continuing, terminate the Commitment of such Lender or L/C Issuer, as applicable, and (1) in the case of a Lender (other than an L/C Issuer), repay all Obligations of such Borrower 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 such Borrower 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* that (i) 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, (ii) in the case of any such replacement of, or termination of Commitments with respect to a Non-Extending Lender, such replacement Lender shall have agreed to the applicable Extension and (iii) in the case of any such replacement as a result of such Borrower 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) deliver any Notes evidencing such Loans to such Borrower or the Administrative Agent (for return to such Borrower). Pursuant to such Assignment and Assumption, (A) the assignee Lender shall acquire all or a portion, as applicable, 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 such Borrower, 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 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), such Borrower 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 arrangements satisfactory to such L/C Issuer (including the furnishing of a backstop standby letter of credit in form and substance and issued by an issuer reasonably satisfactory to such L/C Issuer or the depositing of Cash Collateral into a cash collateral account in amounts and pursuant to arrangements consistent with the requirements of Section 2.16) 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 in its capacity as the Administrative Agent or Collateral Agent except in accordance with the terms of Section 9.09.

(c) In the event that (i) any 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 or Majority Lenders of the applicable class, as applicable, have agreed to such waiver, amendment or modification, then 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 (x) rejects (or is deemed to reject) an Extension under Section 2.19, 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 and (y) does not elect to become a lender in respect of any Specified Refinancing Debt pursuant to Section 2.18. 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 Borrower, pursuant to Section 3.08(a) on or prior to the date that is six months after the Closing Date in connection with any such waiver, amendment or modification constituting a Repricing Event, the Borrower shall pay such Non-Consenting Lender a fee equal to 1.00% of the principal amount of the Initial Term Loans so assigned or prepaid.

(d) Survival. All of the Loan Parties' 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 of each of the following conditions precedent, except as may be waived or otherwise agreed between the Company and the Lenders:

(a) The Administrative Agent shall have received all of the following, subject to Section 6.16, each of which shall be originals or facsimiles or "pdf" files unless otherwise specified, each properly executed by a Responsible Officer of the signing Loan Party, as applicable, each dated as of the Closing Date (or, in the case of certificates of governmental officials, as of a recent date before the Closing Date), and each accompanied by their respective required schedules and other attachments (and set forth thereon shall be all required information with respect to BD, the Company and its Subsidiaries, after giving effect to the Transactions):

(i) an executed counterpart of this Agreement from the Company;

(ii) the BD Guaranty, duly executed by BD;

(iii) a Note executed by the Company in favor of each Lender requesting a Note at least three Business Days prior to the Closing Date;

(iv) a Committed Loan Notice and a Letter of Credit Application, if applicable, in each case relating to the initial Credit Extension to be made on the Closing Date;

(v) such customary documents and certifications (including Organization Documents and, if applicable, good standing certificates or certificates of status) as the Administrative Agent may reasonably require to evidence (A) the identity, authority and capacity of each Responsible Officer of each of BD and the Company acting as such in connection with this Agreement and the other Loan Documents and (B) that each of BD and the Company is duly organized or formed, validly existing and in good standing, except to the extent that failure to be so qualified could not reasonably be expected to have a Material Adverse Effect;

(vi) an opinion of (A) Wachtell, Lipton, Rosen & Katz, special New York and Delaware counsel to the Company and (B) in-house counsel for BD, in each case in form and substance reasonably satisfactory to the Administrative Agent;

(vii) a certificate of a Responsible Officer of the Company certifying that the conditions set forth in Sections 4.01(b) and (d) have been satisfied.

(b) Since December 31, 2021, a Material Adverse Effect shall not have occurred.

(c) The Company shall have provided at least three Business Days prior to the Closing Date (x) all documentation and other information about BD, the Company and the other Guarantors as has been reasonably requested in writing at least ten Business Days prior to the Closing Date by any Lender that such Lender reasonably determines is required by regulatory authorities under applicable "know your customer" requirements and applicable anti-money-laundering laws, including the PATRIOT Act and (y) if any Borrower qualifies as a "legal entity customer" under the Beneficial Ownership Regulation, such Borrower shall have delivered to each Lender that so requests a Beneficial Ownership Certification in relation to such Borrower.

(d) The representations and warranties of the Company contained in Article V and of BD contained in the BD Guaranty 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.

(e) All fees required to be paid on the Closing Date and the reasonable and documented out-of-pocket expenses required to be paid on the Closing Date, to the extent such expenses are invoiced at least three Business Days prior to the Closing Date (or such later date as the Company may reasonably agree) shall, upon the initial borrowing hereunder, have been paid or shall be paid substantially concurrently with the initial funding under this Agreement (which amounts may, at the Company's option, be offset against the proceeds of the Initial Term Loans or the proceeds of the funding of the Initial Revolving Credit Commitments).

(f) The Company shall have issued the Senior Secured Notes prior to, or substantially concurrently with, the initial Credit Extension hereunder on the Closing Date.

Without limiting the generality of the provisions of Section 9.03, for purposes of determining compliance with the conditions specified in this Section 4.01, each Lender as of the Closing Date shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required hereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received written notice from such Lender prior to the Closing Date specifying its objection thereto.

Section 4.02 Conditions to All Credit Extensions. The obligation of each Lender to honor any Request for Credit Extension (other than on the Closing Date, or with respect to a Committed Loan Notice requesting only a conversion of Loans to the other Type, or a continuation of SOFR Loans or Eurocurrency Rate Loans) is subject to the satisfaction or due waiver in accordance with Section 10.01 of the following conditions precedent (subject to Section 1.02(i)):

(a) The representations and warranties of the Company and each other Loan Party 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 except that for purposes of this Section 4.02, 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.

(b) No Default or Event of Default shall exist at the time of or immediately after giving effect to such proposed Credit Extension.

(c) The Administrative Agent and, if applicable, the L/C Issuer shall have received a Request for Credit Extension in accordance with the requirements hereof.

ARTICLE V

REPRESENTATIONS AND WARRANTIES

Each of the Company and each other Borrower represents and warrants, in each case after giving effect to the Transactions, to the Administrative Agent, Collateral Agent and the Lenders on the Closing Date, the Spin-Off Date and on each other date thereafter on which a Credit Extension is made, that:

Section 5.01 Existence, Qualification and Power; Compliance with Laws. Each Loan Party and each of the Restricted Subsidiaries (subject, in the case of clause (c), to Section 5.03) (a) is a Person duly organized, formed or incorporated, amalgamated or continued, validly existing and in good standing (to the extent such concept is applicable in the relevant jurisdiction) 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 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 in the relevant jurisdiction) 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 clauses (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 of each Loan Document to which such Person is or is to be a party, are within such Loan Party's corporate or other powers, have been duly authorized by all necessary corporate or other organizational action and do not (a) contravene the terms of any of such Person's Organization Documents or (b) violate any Law, except in the case of this clause (b), 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 of this Agreement or any other Loan Document, or for the consummation of the Transactions, (b) the grant by any Loan Party 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, except for (w) filings and registrations necessary to perfect the Liens on the Collateral granted by the Loan Parties consisting of UCC financing statements and filings in the United States Patent and Trademark Office and the United States Copyright Office, (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 (to the extent such concept is applicable in the relevant jurisdiction and subject, in each case, to Section 5.03) that is party thereto. This Agreement and each other Loan Document constitutes, a legal, valid and binding obligation of such Loan Party, enforceable against each Loan Party that is party thereto in accordance with its terms (except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally and by general principles of equity).

Section 5.05 Financial Statements; No Material Adverse Effect.

(a) The audited consolidated financial statements of the Company (or of any Parent Holding Company or Subsidiary of a Parent Holding Company allowed to be delivered pursuant to the terms hereof) and its Subsidiaries most recently delivered pursuant to Section 6.01(a) fairly present in all material respects the consolidated financial condition of the Company (or of any Parent Holding Company or Subsidiary of a Parent Holding Company allowed to be delivered pursuant to the terms hereof) and its Subsidiaries as of the dates thereof and their results of operations for the period covered thereby in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein.

(b) The unaudited consolidated financial statements of the Company (or of any Parent Holding Company or Subsidiary of a Parent Holding Company allowed to be delivered pursuant to the terms hereof) and its Subsidiaries most recently delivered pursuant to Section 6.01(b) (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein, and (ii) fairly present in all material respects the consolidated financial condition of the Company (or of any Parent Holding Company or Subsidiary of a Parent Holding Company allowed to be delivered pursuant to the terms hereof) and its Subsidiaries as of the date thereof and their results of operations for the period covered thereby, 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.

(d) The Projections prepared by or on behalf of the Company or any of its representatives and that have been made available to any Lenders or Agents in writing prior to the Closing Date in connection with the Transactions or the other transactions contemplated hereby were prepared in good faith on the basis of the assumptions stated therein, which assumptions were believed by the Company to be reasonable in light of the conditions existing at the time of delivery of such forecasts; it being understood that no assurance can be given that any particular projections will be realized, actual results may vary from such forecasts and that such variations may be material.

Section 5.06 Litigation. 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 Restricted Group Member, 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 only use the proceeds of the Initial Term Loans (i) to finance the Special Payment, (ii) to pay the Transaction Costs (including paying any fees, commissions and expenses associated therewith), (iii) to finance any OID and/or upfront fees and (iv) for working capital and other general corporate purposes;

(b) will only use the proceeds of the Revolving Credit Loans made on the Closing Date (i) to fund any OID and/or upfront fees, (ii) for working capital and other general corporate purposes, and (iii) to pay Transaction Costs in an amount not to exceed $10,000,000; and

(c) will use the Letters of Credit issued and the proceeds of all other Borrowings made after the Closing Date to finance the working capital needs of any Restricted Group Member, for general corporate purposes of any Restricted Group Member (including acquisitions, restricted payments and other Investments permitted hereunder) and/or for any other purpose not prohibited by this Agreement.

Section 5.08 Ownership of Property; Liens. Each Loan Party and each of the Restricted Subsidiaries has fee simple or other comparable valid title to, or leasehold interests in, all real property necessary in the ordinary conduct of its business, free and clear of all Liens except for minor 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 not prohibited 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 necessary for the ordinary conduct of the Borrowers' business, taken as a whole.

Section 5.09 Environmental Compliance. Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect:

(a) the Restricted Group and their respective operations and properties are in compliance with all applicable Environmental Laws and Environmental Permits and none of the Restricted Group are subject to any Environmental Liability.

(b) (i) None of the properties currently or, to the knowledge of any Borrower, formerly owned or operated by any Restricted Group Member is listed or, to the knowledge of any Borrower, proposed for listing on the NPL or on the SEMS or any analogous foreign, state, provincial, territorial or local list, (ii) there is no asbestos or asbestos-containing material on any property currently owned or operated by any Restricted Group Member requiring investigation, remediation, mitigation, removal, or assessment, or other response, remedial or corrective action, pursuant to any Environmental Law and (iii) Hazardous Materials have not been Released and there exists no threat of Release of Hazardous Materials on any property currently or, to the knowledge of any Borrower, formerly owned or operated by any Restricted Group Member, except for such Releases or threats of Releases that were in compliance with, or would not reasonably be expected to give rise to liability of any Restricted Group Member under any Environmental Law.

(c) None of the Restricted Group is undertaking, either individually or together with other potentially responsible parties, any investigation, remediation, mitigation, removal, assessment or remedial, response or corrective action relating to any actual or threatened Release of Hazardous Materials at any site, location or operation, either voluntarily or pursuant to the order of any Governmental Authority or the requirements of any Environmental Law.

(d) All Hazardous Materials Released, generated, used, treated, handled or stored at, or transported to or from, any property currently or, to the knowledge of any Borrower, formerly owned or operated by any Restricted Group Member have been disposed of in a manner that would not reasonably be expected to result in liability to any Restricted Group Member.

(e) None of the Restricted Group has received notice of or is subject to any claim, action, proceeding or suit with respect to any actual or alleged Environmental Liability.

Section 5.10 Taxes. The Restricted Group have filed or have caused to be filed all Tax returns and reports required to have been filed (taking into account any valid extensions thereof), and have paid all Taxes (including in their capacity as withholding agents) 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 GAAP 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 Benefit 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, each Foreign Plan is in compliance with all requirements of Law applicable thereto and the respective requirements of the governing documents for such plan.

(c) Except as would not reasonably be expected to have a Material Adverse Effect: (i) 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 and (ii) 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.

(d) Except as would not reasonably be expected to have a Material Adverse Effect: (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, Multiemployer Plan or Foreign 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) as of the most recent valuation date for any Plan, the present value of all accrued benefits under such Plan (based on the actuarial assumptions used to fund such Plan) did not exceed the value of the assets of such Plan allocable to such accrued benefits, (v) neither any Loan Party nor, to the knowledge of any Loan Party, any ERISA Affiliate knows of any facts or circumstances that would reasonably be expected to cause the funding target attainment percentage (as defined in Section 430(d)(2) of the Code) for any Plan, if applicable, to drop below 80.0% as of the most recent valuation date, (vi) neither any Loan Party nor any ERISA Affiliate has incurred any liability to the PBGC other than for the payment of premiums, and there are no premium payments which have become due that are unpaid, (vii) neither any Loan Party nor any ERISA Affiliate has engaged in a transaction that could be subject to Sections 4069 or 4212(c) of ERISA and (viii) 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.

Section 5.12 Subsidiaries; Capital Stock. As of the Spin-Off Date, after giving effect to the Transactions, there are no Restricted Subsidiaries other than those specifically disclosed in Schedule 5.12, and all of the outstanding Capital Stock in such Restricted Subsidiaries that are owned by a Loan Party have been validly issued, are 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. As of the Spin-Off Date, after giving effect to the Transactions, each Subsidiary of the Company (other than any Excluded Subsidiaries) is listed on Schedule 1.

Section 5.13 Margin Regulations; Investment Company Act.

(a) None of the Loan Parties is engaged, nor will any such Loan Party 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. 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. No proceeds of any Borrowings and no Letters 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; *provided* that this sentence shall not be included in any representation or warranty in connection with the establishment of any New Loan Commitments or the incurrence of New Term Loans unless otherwise agreed by the applicable Borrower and the applicable lenders under any such facility.

(b) None of the Loan Parties is, or 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 (other than projected financial information, pro forma financial information and information of a general economic or industry nature) to any Agent or any Lender in connection with the transactions contemplated hereby and the negotiation of this Agreement or delivered hereunder or any other Loan Document (as modified or supplemented by other information so furnished), when 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 the light of the circumstances under which they were made, not materially misleading; *provided* that, with respect to projected and pro forma financial information, each Borrower represents 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 actual results may vary from such forecasts and that such variances may be material. As of the Closing Date, in relation to the Initial Term Loans incurred by the Company on such date, the information included in the Beneficial Ownership Certification, if applicable, is, to the knowledge of the Company, true and correct in all respects.

Section 5.15 Compliance with Laws. The Company 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 each Borrower, each Borrower and each Guarantor owns, licenses or possesses the right to use, all of the trademarks, service marks, trade names, copyrights, patents and other intellectual property rights (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, could not reasonably be expected to have a Material Adverse Effect and *provided* that the foregoing shall not be deemed to constitute a representation that the Borrowers and the Guarantors do not infringe or violate the IP Rights held by any other Person. Set forth on Schedule 5.16 is a complete and accurate list of all material registrations or applications for registration in the United States Patent and Trademark Office or the United States Copyright Office of patents, trademarks, and copyrights owned or, in the case of copyrights, exclusively licensed by the Company and Guarantors as of the Spin-Off Date, after giving effect to the Transactions. To the knowledge of each Borrower, the conduct of the business of the Borrowers or Guarantors as currently conducted does not infringe upon or violate any IP Rights held by any other Person, except for such infringements and violations which, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect, and no claim or litigation alleging any such infringement or violation is pending or, to the knowledge of each Borrower, threatened in writing, which, either individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect.

Section 5.17 Solvency. On the Closing Date and on the Spin-Off Date, in each case after giving effect to the Transactions, including the incurrence of indebtedness and obligations being incurred in connection with this Agreement and the Transactions, the Company and its Restricted Subsidiaries, on a consolidated basis, are Solvent.

Section 5.18 Perfection, Etc. Each Collateral Document delivered pursuant to this Agreement will, upon execution and delivery thereof, be effective to create 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 to enforcement, 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 (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 and, solely with respect to Equity Interests (other than with respect to Equity Interests constituting Excluded Property), fully perfected Liens (subject to no other Liens other than Permitted Liens), in each case, so far as possible under relevant law 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 each case free and clear of any Liens other than Liens permitted hereunder.

Section 5.19 Sanctions; OFAC.

(a) Sanctions Laws and Regulations. Each of the Company, each Borrower and each of their respective Subsidiaries is (i) in compliance with applicable Sanctions Laws and Regulations and (ii) in compliance, in all material respects, with applicable anti-money laundering laws and regulations. No Borrowing or Letter of Credit, or use of proceeds therefrom, will violate or result in the violation of any Sanctions Laws and Regulations by any party hereto.

(b) OFAC. None of (I) the Company, any Borrower or any other Loan Party and (II) the Non-Loan Party Subsidiaries or any director, officer or, to the knowledge of each Borrower, manager, agent or employee of the Company, any Borrower or any of their respective Restricted Subsidiaries, in each case, (i) is a person whose property or interest in property is blocked or subject to blocking pursuant to Section 1 of the Executive Order, (ii) engages in any dealings or transactions prohibited by Section 2 of the Executive Order, or is otherwise associated with any such person in any manner that violates Section 2 of the Executive Order or (iii) is a Sanctioned Person. No Borrower will directly or indirectly use the proceeds of the Loans or otherwise make available such proceeds to any Person, (x) for the purpose of financing activities or transactions of or with any Sanctioned Person, or dealings or investments in or with any Sanctioned Country, in each case in violation of Sanctions Laws and Regulations, or (y) in any manner that would constitute or give rise to a violation of Sanctions Laws and Regulations by any party hereto.

Section 5.20 Anti-Corruption Laws. No part of the proceeds of any Loan will, directly or, to the knowledge of each Borrower, indirectly, be used for any improper payments 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, 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, or any other similar law relating to corruption or bribery that applies to any Loan Party or any of its Subsidiaries (the "**Anti-Corruption Laws**"). Each of the Company, each Borrower, each of their respective Subsidiaries and their respective officers, directors and, to the knowledge of the Company and each Borrower, employees and agents are in compliance in all material respects with Anti-Corruption Laws.

Section 5.21 No Default. No Default or Event of Default has occurred or is continuing under this Agreement.

ARTICLE VI

AFFIRMATIVE COVENANTS

So long as any Lender shall have any Commitment hereunder, any Loan or other Obligation (other than any Remaining Obligations) hereunder shall remain unpaid or unsatisfied, or any Letter of Credit remains outstanding (other than any Remaining Obligations), the Company 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:

Section 6.01 Financial Statements. Deliver to the Administrative Agent for further distribution to each Lender:

(a) within 125 days after the end of each fiscal year (or 150 days after the fiscal year ending September 30, 2022) (or if such day is not a Business Day, on the next succeeding Business Day) of the Company (which period for delivery may be extended by the Administrative Agent in its sole discretion by up to 30 days), a consolidated balance sheet of the Company 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, starting with the fiscal year ending September 30, 2023, 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 any independent certified public accountant of nationally recognized standing, which report and opinion shall be prepared in accordance with generally accepted auditing standards and shall not be subject to any qualification or exception as to "going concern" or scope of the audit (other than any such qualification, exception or explanatory paragraph that is expressly solely with respect to, or expressly resulting solely from, (i) an upcoming maturity date under the Facilities, the Senior Secured Notes or other Indebtedness that is scheduled to occur within one year from the time such report and opinion are delivered, (ii) any actual or potential inability to satisfy a financial maintenance covenant, including the Financial Covenant, on a future date or in a future period or (iii) the activities, operations, financial results, assets or liabilities of any Unrestricted Subsidiary (but which may contain an explanatory note or emphasis of matter paragraph));

(b) within 65 days (or 75 days with respect to each of the first three of such fiscal quarters for which quarterly financial statements are required to be delivered pursuant to this Section 6.01(b)) after the end of each of the first three fiscal quarters of each fiscal year of the Company (or if such day is not a Business Day, the next succeeding Business Day), starting with the fiscal quarter ended June 30, 2022, a consolidated balance sheet of the Company and its Subsidiaries as at the end of such fiscal quarter, and the related consolidated statements of income or operations and cash flows for such fiscal quarter and for the portion of the fiscal year then ended, setting forth in each case, starting with the fiscal quarter ending June 30, 2023, 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 Company as fairly presenting in all material respects the financial condition, results of operations and cash flows of the Company and its Subsidiaries in accordance with GAAP, subject only to normal year-end audit adjustments and the absence of footnotes;

(c) [reserved]; and

(d) if the Company has designated any of its Subsidiaries as an Unrestricted Subsidiary, and such Unrestricted Subsidiary would, if taken as a whole with all other Unrestricted Subsidiaries, constitute a Material Subsidiary, then the annual and quarterly information required by Sections 6.01(a) and (b) above shall include a presentation, either on the face of the financial statements or in footnotes thereto, to reflect the adjustments which would be necessary to eliminate the accounts of Unrestricted Subsidiaries from such financial statements (and which presentation, for the avoidance of doubt, need not be audited).

Notwithstanding the foregoing:

(A) the obligations in clauses (a), (b) and (c) of this Section 6.01 may be satisfied by furnishing, at the Company's option, the applicable financial statements or, as applicable, forecasts of (I) any successor of the Company, (II) any Wholly Owned Restricted Subsidiary of the Company that, together with its consolidated Restricted Subsidiaries, constitutes substantially all of the assets of the Company and its combined and consolidated Subsidiaries (a "**Qualified Reporting Subsidiary**") or (III) any Parent Holding Company; *provided* that to the extent such information relates to a Qualified Reporting Subsidiary or a Parent Holding Company, such information is accompanied by customary consolidating information (which may be unaudited) that explains in reasonable detail the material differences between the information relating to such Qualified Reporting Subsidiary or any Parent Holding Company, on the one hand, and the information relating to the Restricted Group on a standalone basis, on the other hand, (B) (i) in the event that the Company (or any Parent Holding Company or Subsidiary of a Parent Holding Company allowed to be delivered pursuant to the terms hereof) delivers to the Administrative Agent an Annual Report on Form 10-K for any fiscal year (or similar filing in the applicable jurisdiction or other reports or filings which contain the information contemplated herein), 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 qualification or exception as to "going concern" or the scope of the audit (other than any such qualification, exception or explanatory paragraph that is expressly permitted to be contained therein under clause (a) of this Section 6.01) (but which may contain an explanatory note or emphasis of matter paragraph) and (ii) in the event that the Company (or any Parent Holding Company or Subsidiary of a Parent Holding Company allowed to be delivered pursuant to the terms hereof) delivers to the Administrative Agent a Quarterly Report on Form 10-Q for any fiscal quarter (or similar filing in the applicable jurisdiction or other reports or filings which contain the information contemplated herein), 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 6.01 with respect to such fiscal quarter to the extent that it contains the information required by such clause (b),

(C) any financial statements required to be delivered pursuant to Sections 6.01(a) and 6.01(b) shall not be required to contain:

(i) 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,

(ii) segment reporting and disclosure (including any required by FASB Accounting Standards Codification Topic 280),

(iii) separate financial statements or other information contemplated by Rules 3-05, 3-09, 3-10, 3-16, Rule 13-01 and Rule 13-02 or 4-08 of Regulation S-X (or any successor provisions) or any schedules required by Regulation S-X,

(iv) information required by Regulation G under the Exchange Act or Item 10, Item 302, Item 402 or Item 601 of Regulation S-K (or any successor provision),

(v) XBRL exhibits,

(vi) earnings per share information,

(vii) information regarding executive compensation and related party disclosure related to SEC Release Nos. 33-8732A, 34-54302A and IC-27444A,

(viii) other information customarily excluded from an offering circular, including any information that is not otherwise of the type and form currently included in the applicable offering circulars relating to the Senior Secured Notes, and

(ix) following the consummation of an acquisition in the applicable period or the period thereafter, the obligations in clauses (a) and (b) of this Section 6.01 with respect to the target of such acquisition may be satisfied by, at the option of the Company, (A) furnishing management accounts for the target of such acquisition or (B) omitting the target of such acquisition from the required financial statements of the Company and its Subsidiaries for the applicable period and the period thereafter.

Section 6.02 Certificates; Other Information. Deliver to the Administrative Agent:

(a) no later than five Business 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 Company (which delivery may, unless the Administrative Agent or a Lender requests executed originals, be by electronic communication including fax or email and shall be deemed to be an original authentic counterpart thereof for all purposes);

(b) promptly after the same are available, copies of all annual, regular, periodic and special reports and registration statements which the Company may file with the SEC under Section 13 or 15(d) of the Exchange Act, 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;

(c) [reserved];

(d) promptly after the receipt thereof by any Loan Party or any of its Subsidiaries, copies of each notice or other correspondence received from the SEC (or comparable agency in any applicable non-U.S. jurisdiction) concerning any material investigation or other material inquiry by such agency regarding financial or other operational results of any Loan Party or any of its Subsidiaries;

(e) promptly after the assertion or occurrence thereof, notice of any action arising under any Environmental Law against any Loan Party or any of its Subsidiaries, or of any noncompliance by any Loan Party or any of its Subsidiaries with any Environmental Law or Environmental Permit, in each case that would reasonably be expected to have a Material Adverse Effect;

(f) together with the delivery of each Compliance Certificate pursuant to Section 6.02(a), a report supplementing Schedule 5.12 hereto to the extent necessary so that the related representation and warranty would be true and correct if made as of the date of such Compliance Certificate; and

(g) 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, following the occurrence and continuation of any Event of Default, any Lender through the Administrative Agent may from time to time reasonably request, except to the extent that the provision of any such information would breach any law or contract to which the Company or a Subsidiary is a party.

Documents required to be delivered pursuant to Section 6.01(a), (b), (c) or (d) 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 Company's (or any Parent Holding Company or Subsidiary of a Parent Holding Company allowed to be delivered pursuant to the terms hereof) behalf on the Platform or another relevant 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). The Administrative Agent shall have no responsibility to monitor compliance by the Company, and each Lender shall be solely responsible for timely accessing posted documents.

The Company 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 Company 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, (ii) is not material with respect to the Restricted Group or its respective securities for purposes of applicable foreign, United States federal and state securities laws with respect to the Company 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 or (iii) constitutes information of a type that would be publicly available if the Restricted Group were public reporting companies (as determined by the Company in good faith) (such information, "**Public Side Information**"). Notwithstanding anything herein to the contrary, the Administrative Agent may treat financial statements delivered pursuant to Sections 6.01(a) and (b) and Compliance Certificates delivered pursuant to Section 6.02(a) as being 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 Loan Party has obtained knowledge thereof, notify the Administrative Agent:

(a) of the occurrence of any Default or Event of Default (it being understood that any delivery of a notice of Default or Event of Default shall automatically cure any Default or Event of Default then existing with respect to any failure to deliver such notice, unless a Responsible Officer of the Borrower had actual knowledge that such Default or Event of Default had occurred and should have reasonably known in the course of his or her duties that failure to provide such notice would constitute an Event of Default);

(b) of the institution of any material litigation not previously disclosed by the Company 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

(c) (i) of the occurrence of any ERISA Event, where there is any reasonable likelihood of the imposition of liability on any Loan Party as a result thereof that would be reasonably expected to have a Material Adverse Effect; and (ii) promptly after any reasonable request therefor by the Administrative Agent or any Lender, provide copies of (A) any documents described in Section 101(k)(1) of ERISA that the Company or any ERISA Affiliate has received with respect to any Multiemployer Plan with respect to which there is any reasonable likelihood of a Material Adverse Effect or (B) any notices described in Section 101(l)(1) of ERISA that the Company or any ERISA Affiliate has received with respect to any Multiemployer Plan with respect to which there is any reasonable likelihood of the imposition of liability that would reasonably be expected to have a Material Adverse Effect; *provided*, *however*, that if the Company has not requested or received such documents or notices from the administrator or sponsor of the applicable Multiemployer Plan, the Company or ERISA Affiliate shall promptly make a request for such documents and notices from such administrator or sponsor and shall provide copies of such documents and notices promptly after receipt thereof.

Each notice pursuant to this Section 6.03 shall be accompanied by a statement of a Responsible Officer of the Company setting forth details of the occurrence referred to therein and stating what action the Company has taken and proposes 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 except those (a) which are being contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves in accordance with GAAP are being maintained by any Restricted Group Member or (b) with respect to which 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 not prohibited 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 Restricted Group Member of any registered copyrights, patents, trademarks, trade names and service marks that any Restricted Group Member reasonably determines is not useful to its business or is no longer commercially desirable.

Section 6.06 Maintenance of Properties. 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.

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 Company believes (in the good faith judgment of the Company) 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 Company believes (in the good faith judgment of management of the Company) is reasonable and prudent in light of the size and nature of its business) and against at least such risks (and with such risk retentions) as are usually insured against in the same general area by companies

engaged in businesses similar to those engaged by the Restricted Group. Subject to Section 6.16, the Company shall use commercially reasonable efforts to ensure that at all times from and after the Spin-Off Date the Collateral Agent, for the benefit of the Secured Parties, shall be named as an additional insured with respect to liability policies (other than directors and officers policies and workers compensation) maintained by the Company, each Borrower and each Guarantor and the Collateral Agent, for the benefit of the Secured Parties, shall be named as loss payee and mortgagee with respect to the property insurance maintained by the Company, each Borrower and each Guarantor; *provided* that, unless an Event of Default shall have occurred and be continuing subject to Section 2.05, (A) all proceeds from insurance policies shall be paid to the applicable Borrower or applicable Guarantor, (B) to the extent the Collateral Agent receives any proceeds, the Collateral Agent shall turn over to the Company any amounts received by it as an additional insured or loss payee under any property insurance maintained by the Company and its Subsidiaries and (C) the Collateral Agent agrees that the Company and/or its Subsidiaries shall have the sole right to adjust or settle any claims under such insurance.

Section 6.08 Compliance with Laws. Comply with all applicable Laws (including, without limitation, ERISA, the PATRIOT Act, Anti-Corruption Laws and Sanctions Laws and Regulations) in all material respects 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 consistently applied in respect of all financial transactions and matters involving the assets and business of the Company or such Restricted Subsidiary, as applicable (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 and, during the continuance of any Event of Default, of each Lender 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 any Restricted Group Member 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, officers, and independent public accountants (subject to such accountants' customary policies and procedures), at such reasonable times during normal business hours and as often as may be reasonably desired, upon reasonable advance written notice to the Company; *provided* that, excluding any such visits and inspections during the continuation of an Event of Default, (i) only the Administrative Agent on behalf of the Lenders may exercise rights under this Section 6.10, (ii) the Administrative Agent shall not exercise such rights more often than one time during any calendar year and (iii) such exercise shall be at the Company's reasonable expense; *provided*, *further*, that when an Event of Default is continuing the Administrative Agent (or any of its respective representatives) may do any of the foregoing at the reasonable expense of the Company 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 Company the opportunity to participate in any discussions with the Company's accountants. Notwithstanding anything to the contrary in this Section 6.10, none of the Restricted Group 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. (a) Upon the formation or acquisition of any new Wholly Owned Subsidiary (including, without limitation, pursuant to an LLC Division or LP Division, or the creation of new Series LLC or Series LP) by any Loan Party after the Spin-Off Date (*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/or (b) upon the acquisition of any property (other than Excluded Property) by any Loan Party, which property, 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 Company shall, at the Company's expense:

(1) in connection with such formation or acquisition of a Subsidiary pursuant to Section 6.12(a), within the later of (x) 90 days after such formation or acquisition or (y) the date of delivery of the next Compliance Certificate in accordance with Section 6.02(a) after such formation or acquisition (or, in each case, such longer period as the Collateral Agent may agree in its reasonable discretion), (A) cause each such Subsidiary that is not an Excluded Subsidiary to duly execute and deliver to the Collateral Agent and the Administrative Agent a Guaranty Supplement, in form and substance reasonably satisfactory to the Administrative Agent, and a joinder or supplement to the applicable Collateral Documents and (B) (if not already so delivered) deliver certificates (or the foreign equivalent thereof, as applicable) representing the Pledged Interests of each such Subsidiary (if any) held by the applicable Loan Party 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 Security Agreement; *provided* that no Excluded Property shall be required to be pledged as Collateral,

(2) in connection with such acquisition of any property pursuant to Section 6.12(b), within the later of (x) 90 days after such acquisition or (y) the date of delivery of the next Compliance Certificate in accordance with Section 6.02(a) after such acquisition (or, in each case, such longer period as the Collateral Agent may agree in its reasonable discretion), (A) cause each such Loan Party to duly execute and deliver to the Collateral Agent one or more Security Agreement Supplements, Intellectual Property Security Agreement Supplements and other Collateral Documents, in form and substance reasonably satisfactory to the Collateral Agent (consistent, to the extent applicable, with the Security Agreement, the Intellectual Property Security Agreement and the other Collateral Documents (and Section 6.14)), securing payment of all the Obligations of the applicable Loan Party 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 or other Collateral Documents shall be required to be delivered in respect thereof, to the extent that any such properties or property constitute Excluded Property, and

(3) within the later of (x) 90 days after such formation or acquisition or (y) the date of delivery of the next Compliance Certificate in accordance with Section 6.02(a) after such formation or acquisition (or, in each case, such longer period as the Collateral Agent may agree in its reasonable discretion), take, and cause such Subsidiary that is not an Excluded Subsidiary and each applicable Loan Party to take, whatever action (including the filing of UCC financing statements, the giving of notices and delivery of stock and membership interest certificates or foreign equivalents representing the applicable Capital Stock) as may be necessary or advisable in the reasonable opinion of the Collateral Agent to vest in the Collateral Agent (or in any representative of the Collateral Agent designated by it), subject to Section 5.03, valid and subsisting Liens on the properties purported to be subject to the Security Agreement Supplements, Intellectual Property Security Agreement Supplements, supplements to other Collateral Documents and security agreements delivered pursuant to this Section 6.12, in each case to the extent required under the Loan Documents and subject to the Perfection Exceptions, enforceable against all third parties in accordance with their terms, and

(4) 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 to the extent required under the Loan Documents and subject to the Perfection Exceptions.

For the avoidance of doubt, nothing in this Section 6.12 or in Section 6.14 shall be deemed to require any Restricted Group Member to grant security interests or take steps with respect to perfection thereof to the extent such steps are not required in the Collateral Documents entered into on the Spin-Off Date (or after the Spin-Off Date in accordance with Section 6.16) or to the extent in contravention with the Perfection Exceptions.

Notwithstanding anything to the contrary herein or in any other Loan Document, the Company shall have the right, at any time, to designate an Excluded Subsidiary as a Guarantor (and to subsequently release such Guarantee in accordance with Section 9.11(c)); *provided* that, in the case of a designation of a Non-U.S. Subsidiary, the jurisdiction of such Subsidiary shall be reasonably satisfactory to the Administrative Agent, and the Administrative Agent, the Collateral Agent and the Revolving Credit Lenders, as applicable, shall have received a Beneficial Ownership Certification and all other documentation and other information about such Non-U.S. Subsidiary as has been reasonably requested in writing by the Administrative Agent, the Collateral Agent or such Lenders that they reasonably determine is required by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including without limitation the PATRIOT Act and Beneficial Ownership Regulation; *provided*, *further*, that in no circumstance shall an Excluded Subsidiary become a Guarantor unless designated in writing as a Guarantor by the Company in its sole discretion.

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, (a) comply, and take commercially reasonable efforts to cause all lessees operating or occupying its properties to comply with all Environmental Laws and Environmental Permits; (b) obtain, maintain and renew all applicable Environmental Permits required under Environmental Laws for its operations and properties; and (c) 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 response action necessary to respond to and remove and clean up all Releases of Hazardous Materials from any of its properties, in accordance with the requirements of applicable Environmental Laws; *provided*, *however*, that no Restricted Group Member 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.

(a) 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, (i) 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 (ii) 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. Notwithstanding anything to the contrary in any Loan Documents, neither the Company nor any other Loan Party shall be required to make any filings or take any other actions to perfect, evidence or create the Lien on and security interest in any intellectual property except for filings in the United States Patent and Trademark Office or the United States Copyright Office and the filing of UCC financing statements, and neither the Company nor any other Loan Party shall be required to reimburse the Administrative Agent or the Collateral Agent for any costs incurred in connection with any filings or actions to perfect, evidence or create the Lien on and security interest in any intellectual property other than in connection with such filings in the United States Patent and Trademark Office or the United States Copyright Office and the filing of such UCC financing statements.

(b) Promptly following any request therefor, provide information and documentation reasonably requested by the Administrative Agent or any Lender for purposes of compliance with applicable "know your customer" requirements under applicable anti-money-laundering laws, the PATRIOT Act and the Beneficial Ownership Regulation.

Section 6.15 Maintenance of Ratings. Use commercially reasonable efforts to obtain and maintain (but not obtain or maintain a specific rating) (i) a public corporate family rating of the Company and a rating of the Facilities, in each case from Moody's, and (ii) a public corporate credit rating of the Company and a rating of the Facilities, in each case from S&P (it being understood and agreed that "commercially reasonable efforts" shall in any event include the payment of customary rating agency fees and cooperation with information and data requests by Moody's and S&P in connection with their ratings process).

Section 6.16 Post-Closing Undertakings. (A) On a date that is no later than the Spin-Off Date, the Company shall have delivered to the Administrative Agent and/or the Collateral Agent, as applicable, all of the following, each of which shall be originals or facsimiles or "pdf" files unless otherwise specified, each properly executed by a Responsible Officer of the signing Loan Party or other Person, as applicable, each dated as of a date that is no later than the Spin-Off Date (or, in the case of certificates of governmental officials, as of a recent date before such date), each accompanied by their respective required schedules and other attachments (and set forth thereon shall be all required information with respect to the Company and its Subsidiaries, giving effect to the Transactions):

(a) the Guaranty, duly executed by the Company and each Guarantor;

(b) the Intercompany Subordination Agreement;

(c) the Perfection Certificate;

(d) the First Lien Pari Passu Intercreditor Agreement;

(e) the Security Agreement, duly executed by the Company and each Guarantor, together with:

(i) to the extent required to be pledged under the terms of the Security Agreement, certificates, if any, representing the Equity Interests in each Wholly Owned Subsidiary other than Immaterial Subsidiaries (and other than to the extent that such Equity Interests constitute Excluded Property), accompanied by undated stock powers executed in blank (or stock transfer forms, as applicable) and instruments evidencing the Pledged Debt (as defined in the Security Agreement) indorsed in blank (or instrument of transfer, as applicable);

(ii) copies of proper financing statements, filed or duly prepared for filing under the Uniform Commercial Code in all applicable United States jurisdictions that the Collateral Agent may deem reasonably necessary in order to perfect and protect the Liens on assets of each Loan Party created under the Security Agreement, covering the Collateral described in the Security Agreement;

(iii) the results of the Uniform Commercial Code (or equivalent) filings, intellectual property lien searches, and tax and judgment lien searches made with respect to the Loan Parties in the jurisdictions contemplated by the Perfection Certificate and copies of the financing statements (or similar documents) disclosed by such search and evidence reasonably satisfactory to the Administrative Agent that the liens indicated by such financing statements (or similar documents) are permitted by this Agreement;

(iv) subject to Section 6.16(B), insurance certificates and endorsements with respect to the insurance policies contemplated by Section 6.07, naming the Collateral Agent as additional insured or loss payee, as applicable; and

(v) all other documents and instruments required to create and perfect the Collateral Agent's security interests in the Collateral shall have been executed by each Loan Party, as applicable, and filed or delivered to the Collateral Agent and, if applicable, shall be in proper form for filing in accordance with applicable Law;

(f) an Intellectual Property Security Agreement, duly executed by the Collateral Agent and each Loan Party that owns intellectual property that is required to be pledged in accordance with the Security Agreement;

(g) such customary documents and certifications (including Organization Documents and, if applicable, good standing certificates or certificates of status) as the Administrative Agent may reasonably require to evidence (A) the identity, authority and capacity of each Responsible Officer of the Loan Parties acting as such in connection with this Agreement and the other Loan Documents and (B) that each Loan Party is duly organized or formed, and that each of them is validly existing and, to the extent applicable, in good standing (or the foreign equivalent, if any), except to the extent that failure to be so qualified could not reasonably be expected to have a Material Adverse Effect;

(h) an opinion of Wachtell, Lipton, Rosen & Katz, special New York and Delaware counsel to the Company, in form and substance reasonably satisfactory to the Administrative Agent;

(i) a solvency certificate executed by a senior financial officer (or an officer serving the equivalent function) of the Company (after giving effect to the Transactions to occur on the Spin-Off Date) substantially in the form attached hereto as Exhibit M;

(j) a certificate of a Responsible Officer of the Company certifying that (x) the conditions set forth in Sections 4.02(a) and (b) have been satisfied as of the Spin-Off Date after giving effect to the Transactions and (y) the BD Guaranty Release Conditions have been satisfied or waived as of such date.

(B) Within the time periods specified on Schedule 6.16 hereto (as each may be extended by the Administrative Agent in its reasonable discretion), complete such undertakings as are set forth on Schedule 6.16 hereto.

Section 6.17 No Change in Line of Business. Not engage in any material lines of business substantially different from those lines of business conducted by the Spinco Business on the Spin-Off Date or any business reasonably related, complementary, synergistic or ancillary thereto or reasonable extensions thereof (or other lines of business which are permitted as Investments).

Section 6.18 Transactions with Affiliates.

(a) Enter into or conduct any transaction (including the purchase, sale, lease or exchange of any property or the rendering of any service) with any Affiliate of the Company (an "**Affiliate Transaction**") involving value in excess of the greater of (i) $25,000,000 and (ii) 5.0% of LTM EBITDA unless:

(1) the terms of such Affiliate Transaction, taken as a whole, are not materially less favorable to the Company or such Restricted Subsidiary, as applicable, than those that could be obtained in a comparable transaction at the time of such transaction or the execution of the agreement providing for such transaction in arm's length dealings with a Person who is not such an Affiliate; and

(2) in the event such Affiliate Transaction involves an aggregate value in excess of the greater of (i) $75,000,000 and (ii) 15.0% of LTM EBITDA, the terms of such transaction have been approved by a majority of the members of the Board of Directors of the Company.

Any Affiliate Transaction shall be deemed to have satisfied the requirements set forth in clause (2) of this paragraph if such Affiliate Transaction is approved by a majority of the Disinterested Directors of the Company, if any.

(b) The provisions of the preceding paragraph will not apply to:

(1) any Restricted Payment or other transaction permitted to be made or undertaken pursuant to Section 7.05 (including Permitted Payments) or any Permitted Investment;

(2) any issuance, transfer or sale of (a) Capital Stock, options, other equity-related interests or other securities, or other payments, awards or grants in cash, securities or otherwise to any direct or indirect parent of the Company or future, current or former employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Company or any of its Subsidiaries or any of its direct or indirect parents and (b) directors' qualifying shares and shares issued to foreign nationals as required under applicable law;

(3) any Management Advances and any waiver or transaction with respect thereto;

(4) (a) any transaction between or among the Company and any Restricted Subsidiary (or entity that becomes a Restricted Subsidiary as a result of such transaction), or between or among Restricted Subsidiaries and (b) any merger, amalgamation or consolidation with any direct or indirect parent of the Company, *provided* that such direct or indirect parent shall have no material liabilities and no material assets other than cash, Cash Equivalents and the Capital Stock of the Company and such merger, amalgamation or consolidation is otherwise not prohibited under this Agreement;

(5) the payment of compensation, fees, costs, reimbursements and expenses to, and indemnities (including under insurance policies) and reimbursements, employment and severance arrangements, and employee benefit and pension expenses provided on behalf of, or for the benefit of, future, current or former employees, directors, officers, managers, contractors, consultants, distributors or advisors (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Company, any direct or indirect parent thereof or any Restricted Subsidiary (whether directly or indirectly and including through their Controlled Investment Affiliates or Immediate Family Members);

(6) the entry into and performance of obligations of the Company or any of its Restricted Subsidiaries under the terms of any transaction arising out of, and any payments pursuant to or for purposes of funding, any agreement or instrument in effect as of or on the Closing Date, as these agreements and instruments may be amended, modified, supplemented, extended, renewed or refinanced from time to time in accordance with the other terms of this covenant or to the extent not disadvantageous in any material respect in the reasonable determination of the Company to the Lenders when taken as a whole as compared to the applicable agreement as in effect on the Closing Date;

(7) any transaction effected as part of a Qualified Securitization Financing or Receivables Facility, any disposition or acquisition of Securitization Assets, Receivables Assets or related assets in connection with any Qualified Securitization Financing or Receivables Facility;

(8) transactions with customers, vendors, clients, joint venture partners, suppliers, contractors, distributors or purchasers or sellers of goods or services, in each case in the ordinary course of business or consistent with past practice, which are fair to the Company or its Restricted Subsidiaries, in the reasonable determination of the Company, or are on terms, taken as a whole, that are not materially less favorable as might reasonably have been obtained at such time from an unaffiliated party;

(9) any transaction between or among the Company or any Restricted Subsidiary (or any entity that becomes a Restricted Subsidiary as a result of such transaction) or joint venture (regardless of the form of legal entity) in which the Company or any Subsidiary has invested (and which Subsidiary or joint venture would not be an Affiliate of the Company but for the Company's or a Subsidiary's ownership of Equity Interests in such joint venture or Subsidiary);

(10) any issuance, sale or transfer of Capital Stock (other than Disqualified Stock or Designated Preferred Stock) of the Company, any direct or indirect parent thereof or any of its Restricted Subsidiaries or options, warrants or other rights to acquire such Capital Stock and the granting of registration and other customary rights (and the performance of the related obligations) in connection therewith or any contribution to capital of the Company or any Restricted Subsidiary;

(11) [reserved];

(12) [reserved];

(13) the Transactions and the payment of all fees, costs and expenses (including all legal, accounting and other professional fees, costs and expenses) related to the Transactions, including Transaction Costs;

(14) transactions in which the Company or any Restricted Subsidiary, as applicable, delivers to the Administrative Agent a letter from an Independent Financial Advisor stating that such transaction is fair to the Company or such Restricted Subsidiary from a financial point of view or meets the requirements of Section 6.18(a)(1);

(15) the existence of, or the performance by the Company or any Restricted Subsidiary of its obligations under the terms of, any equityholders, investor rights or similar agreement (including any registration rights agreement or purchase agreements related thereto) to which it is party as of the Closing Date and any similar agreement that it (or any direct or indirect parent of the Company) may enter into thereafter; *provided* that the existence of, or the performance by the Company or any Restricted Subsidiary (or any direct or indirect parent of the Company) of its obligations under any future amendment to any such existing agreement or under any similar agreement entered into after the Closing Date will only be permitted under this clause to the extent that the terms of any such amendment or new agreement are not otherwise, when taken as a whole, more disadvantageous to the Lenders in any material respect in the reasonable determination of the Company than those in effect on the Closing Date;

(16) any purchases by Affiliates of the Company of Indebtedness or Disqualified Stock of the Company or any of the Restricted Subsidiaries the majority of which Indebtedness or Disqualified Stock is purchased by Persons who are not Affiliates of the Company; *provided* that such purchases by Affiliates of the Company are on the same terms as such purchases by such Persons who are not Affiliates of the Company;

(17) (i) investments by Affiliates in securities or loans of the Company or any of its Restricted Subsidiaries (and payment of reasonable out-of-pocket expenses incurred by such Affiliates in connection therewith) so long as the investment is being offered by the Company or such Restricted Subsidiary generally to other non-affiliated third party investors on the same or more favorable terms and (ii) payments to Affiliates in respect of securities or loans of the Company or any of its Restricted Subsidiaries contemplated in the foregoing subclause (i) or that were acquired from Persons other than the Company and its Restricted Subsidiaries, in each case, in accordance with the terms of such securities or loans;

(18) payments by any direct or indirect parent of the Company, the Company or its Subsidiaries pursuant to any tax sharing agreements or other agreements in respect of Permitted Tax Amounts among any such direct or indirect parent of the Company, the Company and/or its Subsidiaries on customary terms to the extent attributable to the ownership or operation of the Company and its Subsidiaries;

(19) payments, Indebtedness and Disqualified Stock (and cancellation of any thereof) of the Company and its Restricted Subsidiaries and Preferred Stock (and cancellation of any thereof) of any Restricted Subsidiary to any future, current or former employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Company, any of its Subsidiaries or any of its direct or indirect parents pursuant to any management equity plan, stock option plan, phantom equity plan or any other management, employee benefit or other compensatory plan or agreement (and any successor plans or arrangements thereto), employment, termination or severance agreement, or any stock subscription or equityholder agreement with any such employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members) that are, in each case, approved by the Company in good faith;

(20) any management equity plan, stock option plan, phantom equity plan or any other management, employee benefit or other compensatory plan or agreement (and any successor plans or arrangements thereto), employment, termination or severance agreement, or any stock subscription or equityholder agreement between the Company or its Restricted Subsidiaries and any distributor, employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members) approved by the reasonable determination of the Company or entered into in connection with the Transactions;

(21) any transition services arrangement, supply arrangement or similar arrangement entered into in connection with or in contemplation of the disposition of assets or Capital Stock in any Restricted Subsidiary permitted under Section 7.04 or entered into with any Business Successor, in each case, that the Company determines in good faith is either fair to the Company or otherwise on customary terms for such type of arrangements in connection with similar transactions;

(22) transactions entered into by an Unrestricted Subsidiary with an Affiliate prior to the day such Unrestricted Subsidiary is redesignated as a Restricted Subsidiary as described under the definition of "Unrestricted Subsidiary" and pledges of Capital Stock of Unrestricted Subsidiaries;

(23) (i) any lease entered into between the Company or any Restricted Subsidiary, as lessee, and any Affiliate of the Company, as lessor and (ii) any operational services or other arrangement entered into between the Company or any Restricted Subsidiary and any Affiliate of the Company, in each case, which is approved by the reasonable determination of the Company;

(24) intellectual property licenses and research and development agreements in the ordinary course of business or consistent with past practice;

(25) payments to or from, and transactions with, any Subsidiary or any joint venture in the ordinary course of business or consistent with past practice (including any cash management arrangements or activities related thereto);

(26) the payment of fees, costs and expenses related to registration rights and indemnities provided to equityholders pursuant to equityholders, investor rights, registration rights or similar agreements;

(27) transactions undertaken in the ordinary course of business pursuant to membership in a purchasing consortium; and

(28) Permitted Intercompany Activities, Permitted Tax Restructurings, Intercompany License Agreements and related transactions.

In addition, if the Company or any of its Restricted Subsidiaries (i) purchases or otherwise acquires assets or properties from a Person which is not an Affiliate, the purchase or acquisition by an Affiliate of the Company of an interest in all or a portion of the assets or properties acquired shall not be deemed an Affiliate Transaction (or cause such purchase or acquisition by the Company or such Restricted Subsidiary to be deemed an Affiliate Transaction) or (ii) sells or otherwise disposes of assets or other properties to a Person who is not an Affiliate, the sale or other disposition by an Affiliate of the Company of an interest in all or a portion of the assets or properties sold shall not be deemed an Affiliate Transaction (or cause such sale or other disposition by the Company or such Restricted Subsidiary to be deemed an Affiliate Transaction).

ARTICLE VII

NEGATIVE COVENANTS

So long as any Lender shall have any Commitment hereunder, any Loan or other Obligation (other than any Remaining Obligations) hereunder shall remain unpaid or unsatisfied, or any Letter of Credit shall remain outstanding (other than any Remaining Obligations), (A) except with respect to Section 7.03 and Section 7.06, the Company shall not, nor shall it permit any Restricted Subsidiary to and (B) with respect to Section 7.03 and Section 7.06, the Company shall not, nor shall it permit any Guarantor to:

Section 7.01 Indebtedness.

(a) Incur any Indebtedness (including Acquired Indebtedness); *provided* that the Company and any Restricted Subsidiary may incur Indebtedness (including Acquired Indebtedness) in an amount not to exceed the Incremental Amount as of the date of Incurrence (subject to Section 1.02(i)); *provided*, *however*, that such Indebtedness, other than (x) with respect to the initial maturity date for Extendable Bridge Loans/Interim Debt and (y) an aggregate principal amount not in excess of the maximum aggregate principal amount then-permitted to be incurred in reliance on the Inside Maturity Basket, has a Stated Maturity that is no earlier than the Maturity Date with respect to the then outstanding Initial Term Loans (such Indebtedness Incurred and Disqualified Stock and Preferred Stock issued, "**Ratio Debt**"); *provided*, *further*, that the aggregate principal amount of Indebtedness (including Acquired Indebtedness) Incurred pursuant to the foregoing by Non-Loan Party Subsidiaries shall not exceed the Non-Loan Party Sublimit as of the date of Incurrence (subject to Section 1.02(i)).

(b) The provisions of Section 7.01(a) will not prohibit the incurrence of the following Indebtedness (collectively, "**Permitted Debt**"):

(1) (w) Indebtedness incurred under the Loan Documents, including any refinancing thereof in accordance with Section 2.18, (x) Credit Agreement Refinancing Debt and any Refinancing Indebtedness in respect thereof (or successive refinancings thereof that each constitute Refinancing Indebtedness), (y) Incremental Equivalent Debt and any Refinancing Indebtedness in respect thereof (or successive refinancings thereof that each constitute Refinancing Indebtedness) and (z) Permitted Debt Exchange Notes;

(2) Guarantees by the Company or any Restricted Subsidiary of Indebtedness or other obligations of the Company or any Restricted Subsidiary so long as the incurrence of such Indebtedness or other obligations is not prohibited by the terms of this Agreement;

(3) Indebtedness of the Company to any Restricted Subsidiary or Indebtedness of a Restricted Subsidiary to the Company or any Restricted Subsidiary; *provided*, *however*, that:

(a) any subsequent issuance or transfer of Capital Stock or any other event which results in any such Indebtedness being held by a Person other than the Company or a Restricted Subsidiary, and

(b) any sale or other transfer of any such Indebtedness to a Person other than the Company or a Restricted Subsidiary, shall be deemed, in each case, to constitute an incurrence of such Indebtedness by the Company or such Restricted Subsidiary, as applicable;

(4) Indebtedness represented by (a) the Senior Secured Notes (other than any Additional Notes (as defined in the Senior Secured Notes Documents)), including any Guarantee thereof, (b) any Indebtedness (other than Indebtedness incurred pursuant to clauses (1) and (4)(a) of this Section 7.01(b)) outstanding on the Closing Date and any Guarantees thereof, (c) Refinancing Indebtedness (including with respect to the Senior Secured Notes and any Guarantee thereof) incurred in respect of any Indebtedness described in this clause (4) or clause (2) or (5) of this Section 7.01(b) or incurred pursuant to Section 7.01(a) and (d) Management Advances;

(5) Indebtedness of (x) the Company or any Restricted Subsidiary incurred or issued to finance an acquisition or Investment or (y) Persons that are acquired by the Company or any Restricted Subsidiary or merged into, amalgamated or consolidated with the Company or a Restricted Subsidiary in accordance with the terms of this Agreement (including designating an Unrestricted Subsidiary as a Restricted Subsidiary); *provided* that such Indebtedness is in an aggregate amount not to exceed (i) the greater of (x) $125,000,000 and (y) 25.0% of LTM EBITDA at the time of incurrence, plus (ii) unlimited additional Indebtedness if after giving pro forma effect to such acquisition, merger, amalgamation or consolidation, either:

(a) The Company would be permitted to incur at least $1.00 of additional Indebtedness pursuant to Section 7.01(a);

(b) either the Consolidated Interest Coverage Ratio of the Restricted Group would not be lower or the Consolidated Total Net Leverage Ratio of the Restricted Group would not be higher, in each case, than it was immediately prior to such acquisition, merger, amalgamation or consolidation; or

(c) such Indebtedness constitutes Acquired Indebtedness (other than Indebtedness incurred in contemplation of the transaction or series of related transactions pursuant to which such Person became a Restricted Subsidiary or was otherwise acquired by the Company or a Restricted Subsidiary); *provided* that, in the case of this clause (c), the only obligors with respect to such Indebtedness shall be those Persons who were obligors of such Indebtedness prior to such acquisition, merger, amalgamation or consolidation;

(6) Swap Obligations (excluding Swap Obligations which are entered into for speculative purposes);

(7) Indebtedness (i) represented by Capitalized Lease Obligations or Purchase Money Obligations in an aggregate outstanding principal amount which, when taken together with the principal amount of all other Indebtedness incurred pursuant to this clause (7)(i) and then outstanding, does not exceed the greater of (a) $150,000,000 and (b) 30.0% of LTM EBITDA at the time of incurrence, and any Refinancing Indebtedness in respect thereof and (ii) arising out of Sale and Leaseback Transactions;

(8) Indebtedness in respect of (a) workers' compensation claims, health, disability or other employee benefits, property, casualty or liability insurance, self-insurance obligations, customer guarantees, performance, indemnity, surety, judgment, bid, appeal, advance payment (including progress premiums), customs, value added or other tax or other guarantees or other similar bonds, instruments or obligations, completion guarantees and warranties or relating to liabilities, obligations or guarantees incurred in the ordinary course of business or consistent with past practice; (b) 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 or consistent with past practice; (c) customer deposits and advance payments (including progress premiums) received from customers for goods or services purchased in the ordinary course of business or consistent with past practice; (d) letters of credit, bankers' acceptances, discounted bills of exchange, discounting or factoring of receivables or payables for credit management purposes, warehouse receipts, guarantees or other similar instruments or obligations issued or entered into, or relating to liabilities or obligations incurred in the ordinary course of business or consistent with past practice; (e) Cash Management Agreements; and (f) Settlement Indebtedness;

(9) Indebtedness arising from agreements providing for guarantees, indemnification, obligations in respect of earn-outs, deferred purchase price or other adjustments of purchase price or, in each case, similar obligations, in each case, incurred or assumed in connection with the acquisition or disposition of any business, assets, a Person (including any Capital Stock of a Subsidiary) or Investment (other than Guarantees of Indebtedness incurred by any Person acquiring or disposing of such business, assets, Person or Investment for the purpose of financing such acquisition or disposition);

(10) [reserved];

(11) Indebtedness of non-Guarantors in an aggregate principal amount not to exceed (together with the outstanding aggregate principal amount of Indebtedness incurred pursuant to clause (23) below) the greater of (i) $225,000,000 and (ii) 45.0% of LTM EBITDA at the time of incurrence, and any Refinancing Indebtedness in respect thereof;

(12) (a) Indebtedness issued by the Company or any of its Subsidiaries to any future, present or former employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Company or any of its Subsidiaries or any direct or indirect parent of the Company in each case to finance the purchase or redemption of Capital Stock of the Company or any direct or indirect parent thereof that is not prohibited by Section 7.05 and (b) Indebtedness consisting of obligations under deferred compensation or any other similar arrangements incurred in the ordinary course of business, consistent with past practice or in connection with the Transactions, any Investment or any acquisition (by merger, consolidation, amalgamation or otherwise);

(13) Indebtedness of the Company or any of its Restricted Subsidiaries consisting of (i) the financing of insurance premiums or (ii) take-or-pay obligations contained in supply arrangements, in each case incurred in the ordinary course of business or consistent with past practice;

(14) Indebtedness in an aggregate outstanding principal amount which, when taken together with the principal amount of all other Indebtedness incurred pursuant to this clause and then outstanding, will not exceed the greater of (i) $250,000,000 and (ii) 50.0% of LTM EBITDA and any Refinancing Indebtedness in respect thereof;

(15) Indebtedness in respect of any Qualified Securitization Financing or any Receivables Facility;

(16) any obligation, or guaranty of any obligation, of the Company or any Restricted Subsidiary to reimburse or indemnify a Person extending credit to customers of the Company or a Restricted Subsidiary incurred in the ordinary course of business or consistent with past practice for all or any portion of the amounts payable by such customers to the Person extending such credit;

(17) Indebtedness to a customer to finance the acquisition of any equipment necessary to perform services for such customer; *provided* that the terms of such Indebtedness are consistent with those entered into with respect to similar Indebtedness prior to the Closing Date, including, if so consistent, that (i) the repayment of such Indebtedness is conditional upon such customer ordering a specific amount or volume, as applicable, of goods or services and (ii) such Indebtedness does not bear interest or provide for scheduled amortization or maturity;

(18) Indebtedness incurred by the Company or any of its Restricted Subsidiaries to the extent that the net proceeds thereof are promptly deposited with the Trustee (as defined in the 5.000% Senior Secured Notes Indenture or the 6.750% Senior Secured Notes Indenture, as applicable), another trustee or agent, as applicable, to satisfy or discharge the Senior Secured Notes, any Ratio Debt, debt incurred pursuant to this Section 7.01, Incremental Equivalent Debt and/or Credit Agreement Refinancing Debt or exercise the applicable borrower's or issuer's legal defeasance or covenant defeasance, in each case, in accordance with the relevant documents governing such Indebtedness;

(19) Indebtedness of the Company or any of its Restricted Subsidiaries arising pursuant to any Permitted Intercompany Activities, Permitted Tax Restructuring and related transactions;

(20) [reserved];

(21) [reserved];

(22) obligations in respect of Disqualified Stock in an amount not to exceed the greater of (i) $50,000,000 and (ii) 10.0% of LTM EBITDA outstanding at the time of incurrence;

(23) Indebtedness incurred for the benefit of joint ventures in an aggregate principal amount not to exceed (together with the outstanding aggregate principal amount of Indebtedness incurred pursuant to clause (11) above) the greater of (i) $225,000,000 and (ii) 45.0% of LTM EBITDA outstanding at the time of incurrence and any Refinancing Indebtedness in respect thereof;

(24) [reserved]; and

(25) to the extent constituting Indebtedness, Guarantees in the ordinary course of business of the obligations of suppliers, customers, franchisees and licensees of the Company and its Subsidiaries.

For purposes of determining compliance with, and the outstanding principal amount of any particular Indebtedness incurred pursuant to and in compliance with, this Section 7.01:

(a) in the event that all or any portion of any item of Indebtedness meets the criteria of more than one of the types of Indebtedness described in this Section 7.01, the Company, in its sole discretion, will classify, and may from time to time reclassify pursuant to clause (b) below, such item of Indebtedness (or any portion thereof) and only be required to include the amount and type of such Indebtedness in Section 7.01(a) or one of the clauses of Section 7.01(b);

(b) additionally, all or any portion of any item of Indebtedness may later be reclassified as having been incurred pursuant to any type of Indebtedness described in this Section 7.01 so long as such Indebtedness is permitted to be incurred pursuant to such provision and any related Liens are permitted to be incurred at the time of reclassification; *provided* that any Indebtedness incurred pursuant to one of the clauses of Section 7.01(b) shall automatically cease to be deemed incurred or outstanding for purposes of such clause of Section 7.01(b) and shall automatically be deemed incurred for the purposes of Section 7.01(a) from and after the first date on which the Company or its Restricted Subsidiaries could have incurred such Indebtedness under Section 7.01(a) without reliance on such clause of Section 7.01(b);

(c) all Indebtedness outstanding on the Closing Date under this Agreement shall be deemed incurred on the Closing Date under clause (1) of Section 7.01(b);

(d) in the case of any Refinancing Indebtedness, when measuring the outstanding amount of such Indebtedness, such amount shall not include the aggregate amount of accrued and unpaid interest, dividends, premiums (including tender premiums), defeasance costs, underwriting discounts, fees, costs and expenses (including original issue discount, upfront fees or similar fees) in connection with such refinancing;

(e) Guarantees of, or obligations in respect of letters of credit, bankers' acceptances or other similar instruments relating to, or Liens securing, Indebtedness that is otherwise included in the determination of a particular amount of Indebtedness shall not be included;

(f) if obligations in respect of letters of credit, bankers' acceptances or other similar instruments are being treated as incurred pursuant to any clause of Section 7.01(b) or Section 7.01(a) and the letters of credit, bankers' acceptances or other similar instruments relate to other Indebtedness, then such other Indebtedness shall not be included;

(g) the principal amount of any Disqualified Stock of the Company or a Restricted Subsidiary, or Preferred Stock of a Restricted Subsidiary, will be equal to the greater of the maximum mandatory redemption or repurchase price (not including, in either case, any redemption or repurchase premium) or the liquidation preference thereof;

(h) Indebtedness permitted by this covenant need not be permitted solely by reference to one provision permitting such Indebtedness but may be permitted in part by one such provision and in part by one or more other provisions of this covenant permitting such Indebtedness;

(i) notwithstanding anything in this covenant to the contrary, in the case of any Indebtedness incurred to refinance Indebtedness initially incurred in reliance on a clause of Section 7.01(b) measured by reference to a percentage of LTM EBITDA at the time of incurrence, if such refinancing would cause the percentage of LTM EBITDA restriction to be exceeded if calculated based on the percentage of LTM EBITDA on the date of such refinancing, such percentage of LTM EBITDA restriction shall not be deemed to be exceeded so long as the principal amount of such refinancing Indebtedness does not exceed the principal amount of such Indebtedness being refinanced, plus accrued and unpaid interest, dividends, premiums (including tender premiums), defeasance costs, underwriting discounts, fees, costs and expenses (including original issue discount, upfront fees or similar fees) in connection with such refinancing; and

(j) the amount of Indebtedness issued at a price that is less than the principal amount thereof will be equal to the amount of the liability in respect thereof determined in accordance with GAAP.

Accrual of interest, accrual of dividends, the accretion of accreted value, the accretion or amortization of original issue discount, the payment of interest in the form of additional Indebtedness, the payment of dividends in the form of additional shares of Preferred Stock or Disqualified Stock or the reclassification of commitments or obligations not treated as Indebtedness due to a change in GAAP, will not be deemed to be an incurrence of Indebtedness for purposes of this Section 7.01.

If at any time an Unrestricted Subsidiary becomes a Restricted Subsidiary, any Indebtedness of such Subsidiary shall be deemed to be incurred by a Restricted Subsidiary as of such date (and, if such Indebtedness is not permitted to be incurred as of such date under this Section 7.01, the Company shall be in default of this covenant).

For purposes of determining compliance with any Dollar-denominated restriction on the incurrence of Indebtedness, the Dollar equivalent principal amount of Indebtedness 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, in the case of revolving credit debt; *provided* that if such Indebtedness is incurred to refinance other Indebtedness denominated in a foreign currency, and such refinancing would cause the applicable Dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such Dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such refinancing Indebtedness does not exceed (a) the principal amount of such Indebtedness being refinanced plus (b) the aggregate amount of accrued and unpaid interest, dividends, premiums (including tender premiums), defeasance costs, underwriting discounts, fees, costs and expenses (including original issue discount, upfront fees or similar fees) in connection with such refinancing.

Notwithstanding any other provision of this covenant, the maximum amount of Indebtedness that the Company or a Restricted Subsidiary may incur pursuant to this covenant shall not be deemed to be exceeded solely as a result of fluctuations in the exchange rate of currencies. The principal amount of any Indebtedness incurred to refinance other Indebtedness, if incurred in a different currency from the Indebtedness being refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such respective Indebtedness is denominated that is in effect on the date of such refinancing.

With respect to any Indebtedness that was permitted to be incurred hereunder on the date of such incurrence, any Increased Amount of such Indebtedness shall also be permitted hereunder after the date of such incurrence.

This Agreement will not treat (1) unsecured Indebtedness as subordinated or junior to secured Indebtedness merely because it is unsecured or (2) senior Indebtedness as subordinated or junior to any other senior Indebtedness merely because it has a junior priority with respect to the same collateral or is secured by different collateral or because it is guaranteed by different obligors.

Section 7.02 Limitations on Liens. Create, incur or permit to exist any Lien securing Indebtedness (each, a "**Subject Lien**"), except (x) if such Subject Lien is a Permitted Lien, (y) any Subject Lien if the obligations secured by such Subject Lien are junior to the Obligations and (z) in the case of any Subject Lien on assets or property not constituting Collateral, any Subject Lien if the Obligations are equally and ratably secured with, or on a senior basis to, the obligations secured by such Subject Lien.

Any Lien created for the benefit of the Secured Parties pursuant to the preceding paragraph shall provide by its terms that such Lien shall be automatically and unconditionally released and discharged upon the release and discharge of the Subject Lien that gave rise to the obligation to so secure the Obligations. With respect to any Lien that was permitted to secure such Indebtedness at the time of the incurrence of such Indebtedness, such Lien shall also be permitted to secure any Increased Amount of such Indebtedness.

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) the Company or any Guarantor may merge, amalgamate or consolidate with or into, or directly or indirectly dispose of all or substantially all of its assets to (upon voluntary liquidation or otherwise) the Company or any Borrower, as applicable (including a merger, the purpose of which is to reorganize the Company or a Borrower into a new jurisdiction) or any other Person; *provided* that (A) the surviving person (if other than the Company or a Borrower or, in the case of a merger or sale of assets of a Guarantor, a Guarantor) shall be a person organized under the laws of an Applicable Jurisdiction and shall expressly assume the obligations of such Borrower or such Guarantor under the Loan Documents, as applicable, pursuant to documents reasonably acceptable to the Administrative Agent and (B) the surviving person (if other than the Company or a Borrower or, in the case of a merger or sale of assets of a Guarantor, a Guarantor) 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;

(b) [reserved];

(c) any Guarantor or Co-Borrower may merge, amalgamate or consolidate with or into, or directly or indirectly dispose of all or substantially all of its assets to (upon voluntary liquidation or otherwise) a Borrower or any Restricted Subsidiary; *provided* that if the transferor in such a transaction is a Loan Party, then either (i) the transferee must either be a Borrower or a Guarantor (or becomes a Guarantor concurrently with the transaction) or (ii) if clause (i) does not apply, to the extent such Disposition of assets shall be deemed to constitute either an Investment or Disposition, such Investment is a Permitted Investment or Indebtedness of a Non-Loan Party Subsidiary in accordance with Section 7.01, respectively, or such Disposition is a Disposition permitted hereunder; *provided*, *further*, that, if a Co-Borrower merges, amalgamates or consolidates with or into, or disposes of all or substantially all of its assets to, any Person, it shall cease to be a Co-Borrower in accordance with Section 11.03.

(d) any Guarantor or Co-Borrower may merge, amalgamate or consolidate with or into, or directly or indirectly dispose of all or substantially all of its assets to (upon voluntary liquidation or otherwise) any other Person in order to effect (i) a Permitted Investment or Indebtedness of a Non-Loan Party Subsidiary in accordance with Section 7.01, respectively, and/or (ii) a Disposition permitted hereunder; *provided* that, if a Co-Borrower merges, amalgamates or consolidates with or into, or disposes of all or substantially all of its assets to any Person, it shall cease to be a Co-Borrower in accordance with Section 11.03;

(e) the Restricted Group may consummate the Transactions;

(f) the Restricted Group may engage in any Permitted Tax Restructuring;

(g) any Guarantor or Co-Borrower may merge, amalgamate or consolidate with or into, or directly or indirectly dispose of all or substantially all of its assets to (upon voluntary liquidation or otherwise) any Person, so long as (i) such transaction is undertaken in good faith to improve the tax efficiency of any direct or indirect parent of the Company, and/or any of its Subsidiaries, and (ii) after giving effect to such transaction, each of the security interest of the Collateral Agent in the Collateral, taken as a whole, and the value of the Guarantees, taken as a whole, is not materially impaired (as determined in good faith by the Borrower); *provided* that, if a Co-Borrower merges, amalgamates or consolidates with or into, or disposes of all or substantially all of its assets to any Person, it shall cease to be a Co-Borrower in accordance with Section 11.03;

(h) the Company and any Co-Borrower may contribute Capital Stock of any or all of their subsidiaries to any Guarantor or any Restricted Subsidiary; and

(i) any Permitted Investment and/or Disposition permitted hereunder may be structured as a merger, consolidation or amalgamation.

For the avoidance of doubt, notwithstanding anything else contained herein, any LLC Conversion shall be permitted under this Agreement and each other Loan Document.

Section 7.04 Asset Dispositions.

(a) Cause or make any Asset Disposition, unless:

(1) The Company or such Restricted Subsidiary, as applicable, receives consideration (including by way of relief from, or by any other Person assuming responsibility for, any liabilities, contingent or otherwise) at least equal to the fair market value (such fair market value to be determined on the date of contractually agreeing to such Asset Disposition), as determined in good faith by the Company, of the shares and assets subject to such Asset Disposition (including, for the avoidance of doubt, if such Asset Disposition is a Permitted Asset Swap);

(2) in any such Asset Disposition, or series of related Asset Dispositions (except to the extent the Asset Disposition is a Permitted Asset Swap), with a purchase price in excess of the greater of (i) $100,000,000 and (ii) 20.0% of LTM EBITDA, at least 75% of the consideration from such Asset Disposition, together with all other Asset Dispositions since the Closing Date as to which this clause (2) applies (on a cumulative basis), received by the Company or such Restricted Subsidiary, as applicable, is in the form of cash or Cash Equivalents; *provided* that, for purposes of this clause (2), the following will be deemed to be cash:

(i) the assumption by the transferee of Indebtedness or other liabilities (including by way of relief from, or by any other Person assuming responsibility for, any such Indebtedness or other liabilities, contingent or otherwise) of the Company or a Restricted Subsidiary (other than Subordinated Indebtedness of a Borrower or a Guarantor) or the release of the Company or such Restricted Subsidiary from all liability on such Indebtedness or other liability in connection with such Asset Disposition;

(ii) securities, notes or other obligations or other property received by the Company or any Restricted Subsidiary from the transferee that are converted by the Company or such Restricted Subsidiary into cash or Cash Equivalents, or by their terms are required to be satisfied for cash and Cash Equivalents (to the extent of the cash or Cash Equivalents received), in each case, within 365 days following the closing of such Asset Disposition;

(iii) Indebtedness of any Restricted Subsidiary that is no longer a Restricted Subsidiary as a result of such Asset Disposition, to the extent that, immediately following such Asset Disposition, neither the Company nor any other Restricted Subsidiary Guarantees the payment of such Indebtedness;

(iv) consideration consisting of Indebtedness of the Company (other than Subordinated Indebtedness) received after the Closing Date from Persons who are not the Company or any Restricted Subsidiary; and

(v) any Designated Non-Cash Consideration received by the Company or any Restricted Subsidiary in such Asset Dispositions having an aggregate fair market value, taken together with all other Designated Non-Cash Consideration received pursuant to this covenant that is at that time outstanding, not to exceed the greater of (i) $150,000,000 and (ii) 30.0% of LTM EBITDA, 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; and

(3) within 540 days from the later of (A) the date of such Asset Disposition and (B) the receipt of the Net Cash Proceeds from such Asset Disposition (as may be extended by an Acceptable Commitment as set forth below), an amount equal to the Net Cash Proceeds from such Asset Disposition is applied, to the extent the Company or any Restricted Subsidiary, as applicable, elects:

(a) to prepay Loans and other Permitted Debt in accordance with Section 2.05(b)(ii);

(b) (i) to invest (including capital expenditures) in or commit to invest in Additional Assets (including by means of an investment in Additional Assets by a Restricted Subsidiary); or

(ii) to invest (including capital expenditures) in any one or more businesses, properties or assets that replace the businesses, properties and/or assets that are the subject of such Asset Disposition, with any such investment made by way of a capital or other lease valued at the present value of the minimum amount of payments under such lease (as reasonably determined by the Company);

provided, *however*, that a binding agreement shall be treated as a permitted application of Net Cash Proceeds from the date of such commitment with the good faith expectation that an amount equal to Net Cash Proceeds will be applied to satisfy such commitment within 180 days after the end of such 540-day period (an "**Acceptable Commitment**") provided that such investment is completed;

(c) to make any other Permitted Investment; or

(d) any combination of the foregoing.

provided that (1) pending the final application of the amount of any such Net Cash Proceeds pursuant to Section 2.05(b)(ii) and this Section 7.04, the Company or the applicable Restricted Subsidiaries may apply such Net Cash Proceeds temporarily to reduce Indebtedness under the Revolving Credit Facility or otherwise apply such Net Cash Proceeds in any manner not prohibited by this Agreement, and (2) the Company (or any Restricted Subsidiary, as applicable) may elect to invest in Additional Assets prior to receiving the Net Cash Proceeds attributable to any given Asset Disposition (*provided* that such investment shall be made no earlier than the earliest of notice to the Administrative Agent of the relevant Asset Disposition, execution of a definitive agreement for the relevant Asset Disposition, and consummation of the relevant Asset Disposition) and deem the amount so invested to be applied pursuant to and in accordance with clause (b) above with respect to such Asset Disposition.

Section 7.05 Restricted Payments.

(a) Declare or pay any dividend or make any distribution on or in respect of the Company's or any Restricted Subsidiary's Capital Stock (including any such payment in connection with any merger or consolidation involving the Company or any of the Restricted Subsidiaries) except:

(1) (a)dividends, payments or distributions payable in Capital Stock of the Company (other than Disqualified Stock) or in options, warrants or other rights to purchase such Capital Stock of the Company;

(b) dividends, payments or distributions payable to the Company or a Restricted Subsidiary (and, in the case of any such Restricted Subsidiary making such dividend or distribution, to holders of its Capital Stock other than the Company or a Restricted Subsidiary on no more than a *pro rata* basis); and

(c) dividends or distributions payable to any direct or indirect parent of the Company to fund interest payments in respect of Indebtedness of such direct or indirect parent which is guaranteed by the Company or any Restricted Subsidiary;

(2) purchase, repurchase, redeem, retire or otherwise acquire or retire for value any Capital Stock of the Company or any direct or indirect parent thereof held by Persons other than the Company or a Restricted Subsidiary;

(3) purchase, repurchase, redeem, defease or otherwise acquire or retire for value, prior to scheduled maturity, scheduled repayment or scheduled sinking fund payment, any Subordinated Indebtedness (other than (a) any such purchase, repurchase, redemption, defeasance or other acquisition or retirement in anticipation of satisfying a sinking fund obligation, principal installment or final maturity, in each case, due within one year of the date of purchase, repurchase, redemption, defeasance or other acquisition or retirement and (b) any Indebtedness incurred pursuant to clause (3) of Section 7.01(b)); or

(4) make any Restricted Investment;

(any such dividend, distribution, payment, purchase, redemption, repurchase, defeasance, other acquisition, retirement or Restricted Investment referred to in clauses (1) through (4) above are referred to herein as a "**Restricted Payment**"), if at the time the Company or such Restricted Subsidiary makes such Restricted Payment:

(a) (i) other than in the case of (A) a Restricted Payment under clauses (3) or (4) above, or (B) amounts attributable to subclauses (i) through (v) of clause (b) below, an Event of Default shall have occurred and be continuing (or would immediately thereafter result therefrom) and (ii) in the case of a Restricted Payment under clauses (3) or (4) above, an Event of Default pursuant to Section 8.01(a), (f) or (g) shall have occurred and be continuing (or would immediately thereafter result therefrom);

(b) the aggregate amount of such Restricted Payment and all other Restricted Payments made subsequent to the Closing Date (and not returned or rescinded) (including Permitted Payments made pursuant to clause (1) (without duplication) and clause (7) of Section 7.05(b), but excluding all other Restricted Payments permitted by Section 7.05(b)) would exceed the sum of (without duplication):

(i) 50% of Consolidated Net Income for the period (treated as one accounting period) from the first day of the fiscal quarter in which the Closing Date occurs to the end of the most recent fiscal quarter ending prior to the date of such Restricted Payment for which consolidated financial statements are available (which may, at the Company's election, be internal financial statements) (or, in the case such Consolidated Net Income is a deficit, minus 100% of such deficit);

(ii) 100% of the aggregate amount of cash, and the fair market value of property or assets or marketable securities, received by the Company from the issue or sale of its Capital Stock or as the result of a merger or consolidation with another Person subsequent to the Closing Date or otherwise contributed to the equity (in each case other than through the issuance of Disqualified Stock or Designated Preferred Stock) of the

Company or a Restricted Subsidiary (including the aggregate principal amount of any Indebtedness of the Company or a Restricted Subsidiary contributed to the Company or a Restricted Subsidiary for cancellation) or that becomes part of the capital of the Company or a Restricted Subsidiary through consolidation or merger subsequent to the Closing Date (other than (x) Net Cash Proceeds or property or assets or marketable securities received from an issuance or sale of such Capital Stock to a Restricted Subsidiary or an employee stock ownership plan or trust established by the Company or any of its Subsidiaries for the benefit of their employees to the extent funded by the Company or any Restricted Subsidiary, (y) cash or property or assets or marketable securities to the extent that any Restricted Payment has been made from such proceeds in reliance on clause (6) of Section 7.05(b) and (z) Excluded Contributions);

(iii) 100% of the aggregate amount of cash, and the fair market value of property or assets or marketable securities, received by the Company or any Restricted Subsidiary from the issuance or sale (other than to the Company or a Restricted Subsidiary or an employee stock ownership plan or trust established by the Company or any of its Subsidiaries for the benefit of their employees to the extent funded by the Company or any Restricted Subsidiary) by the Company or any Restricted Subsidiary subsequent to the Closing Date of any Indebtedness, Disqualified Stock or Designated Preferred Stock that has been converted into or exchanged for Capital Stock of the Company (other than Disqualified Stock or Designated Preferred Stock) plus, without duplication, the amount of any cash, and the fair market value of property or assets or marketable securities, received by the Company or any Restricted Subsidiary upon such conversion or exchange;

(iv) 100% of the aggregate amount received in cash and the fair market value, as determined in good faith by the Company, of marketable securities or other property received by means of: (i) the sale or other disposition (other than to the Company or a Restricted Subsidiary) of, or other returns on Investment from, Restricted Investments made by the Company or its Restricted Subsidiaries and repurchases and redemptions of, or cash distributions or cash interest received in respect of, such Investments from the Company or its Restricted Subsidiaries and repayments of loans or advances, and releases of guarantees, which constitute Restricted Investments by the Company or its Restricted Subsidiaries, in each case after the Closing Date; or (ii) the sale or other disposition (other than to the Company or a Restricted Subsidiary) of the Capital Stock of an Unrestricted Subsidiary or a dividend, payment or distribution from an Unrestricted Subsidiary (other than to the extent of the amount of the Investment that constituted a Permitted Investment or was made under clause (17) of Section 7.05(b) and will increase the amount available under the applicable clause of the definition of "Permitted Investment" or clause (17) of Section 7.05(b), as applicable) or a dividend from a Person that is not a Restricted Subsidiary after the Closing Date;

(v) in the case of the redesignation of an Unrestricted Subsidiary as a Restricted Subsidiary or the merger, amalgamation or consolidation of an Unrestricted Subsidiary into the Company or a Restricted Subsidiary or the transfer of all or substantially all of the assets of an Unrestricted Subsidiary to the Company or a Restricted Subsidiary after the Closing Date, the fair market value of the Investment in such Unrestricted Subsidiary (or the assets transferred), as determined in good faith by the Company at the time of the redesignation of such Unrestricted Subsidiary as a Restricted Subsidiary or at the time of such merger, amalgamation or consolidation or transfer of assets (after taking into consideration any Indebtedness associated with the Unrestricted Subsidiary so designated or merged, amalgamated or consolidated or Indebtedness associated with the assets so transferred), other than to the extent of the amount of the Investment that constituted a Permitted Investment or was made under clause (17) of Section 7.05(b) and will increase the amount available under the applicable clause of the definition of "Permitted Investment" or clause (17) of Section 7.05(b), as applicable; and

(vi) the greater of (i) $175,000,000 and (ii) 35.0% of LTM EBITDA (the foregoing clause (b), the "**Available Amount Builder Basket**").

For the avoidance of doubt, in the event that the Spin-Off Date occurs subsequent to the Closing Date, the acquisition by and/or transfer to the Company and/or any of its Subsidiaries of the Spinco Business and the related transactions in connection with the Spin-Off shall be deemed not to increase the Available Amount Builder Basket.

(b) Section 7.05(a) will not prohibit any of the following (collectively, "**Permitted Payments**"):

(1) the payment of any dividend or distribution within 60 days after the date of declaration thereof, if at the date of declaration such payment would have complied with the provisions of this Agreement or the redemption, repurchase or retirement of Indebtedness if, at the date of any redemption notice, such payment would have complied with the provisions of this Agreement as if it were and is deemed at such time to be a Restricted Payment at the time of such notice;

(2) (a) any prepayment, purchase, repurchase, redemption, defeasance, discharge, retirement or other acquisition of Capital Stock, including any accrued and unpaid dividends thereon ("**Treasury Capital Stock**") or Subordinated Indebtedness made by exchange (including any such exchange pursuant to the exercise of a conversion right or privilege in connection with which cash is paid in lieu of the issuance of fractional shares) for, or out of the proceeds of the substantially concurrent sale of, Capital Stock of the Company or any direct or indirect parent thereof to the extent contributed to the Company (in each case, other than Disqualified Stock or Designated Preferred Stock) ("**Refunding Capital Stock**"), (b) the declaration and payment of dividends on Treasury Capital Stock out of the proceeds of the substantially concurrent sale or issuance (other than to a Subsidiary of the Company or to an employee stock ownership plan or any trust established by the Company or any of its Subsidiaries) of Refunding Capital Stock and (c) if immediately prior to the retirement of Treasury Capital Stock, the declaration and payment of dividends thereon was permitted under clause (13) of this Section 7.05(b), 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 Capital Stock of a direct or indirect parent of the Company) in an aggregate amount per year no greater than the aggregate amount of dividends per annum that were declarable and payable on such Treasury Capital Stock immediately prior to such retirement;

(3) any prepayment, purchase, repurchase, exchange, redemption, defeasance, discharge, retirement or other acquisition of Subordinated Indebtedness made by exchange for, or out of the proceeds of the substantially concurrent sale of, Refinancing Indebtedness permitted to be incurred pursuant to Section 7.01;

(4) any prepayment, purchase, repurchase, exchange, redemption, defeasance, discharge, retirement or other acquisition of Preferred Stock of the Company or a Restricted Subsidiary made by exchange for, or out of the proceeds of the substantially concurrent sale of, Preferred Stock of the Company or a Restricted Subsidiary, as applicable, that, in each case, is permitted to be incurred pursuant to Section 7.01;

(5) any prepayment, purchase, repurchase, exchange, redemption, defeasance, discharge, retirement or other acquisition of Subordinated Indebtedness of the Company or a Restricted Subsidiary or Disqualified Stock or Preferred Stock of a Restricted Subsidiary:

(a) from Net Cash Proceeds to the extent permitted under Section 7.04, but only if the Company shall have first complied with the terms described under Section 2.05(b)(ii); or

(b) to the extent required by the agreement governing such Subordinated Indebtedness, Disqualified Stock or Preferred Stock, following the occurrence of (i) a Change of Control (or other similar event described therein as a "change of control") or (ii) an Asset Disposition (or other similar event described therein as an "asset disposition" or "asset sale"), but only if the Company shall have first complied with the terms described under "Change of Control" or Section 7.04, as applicable, and purchased all Loans tendered pursuant to the offer to repurchase all the Loans required thereby, prior to purchasing, repurchasing, redeeming, defeasing or otherwise acquiring or retiring such Subordinated Indebtedness, Disqualified Stock or Preferred Stock; or

(c) consisting of Acquired Indebtedness (other than Indebtedness incurred in connection with or contemplation of such acquisition);

(6) a Restricted Payment to pay for the prepayment, purchase, repurchase, redemption, defeasance, discharge, retirement or other acquisition of Capital Stock of the Company or any direct or indirect parent thereof held by any future, present or former employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Company or any of its Subsidiaries or any direct or indirect parent of the Company pursuant to any management equity plan, stock option plan, phantom equity plan or any other management, employee benefit or other compensatory plan or agreement (and any successor plans or arrangements thereto), employment, termination or severance agreement, or any stock subscription or equityholder agreement (including, for the avoidance of doubt, any principal and interest payable on any Indebtedness issued by the Company or any direct or indirect parent thereof in connection with such prepayment, purchase, repurchase, redemption, defeasance, discharge, retirement or other acquisition), including any Capital Stock rolled over, accelerated or paid out by or to any employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate

Family Members) of the Company or any of its Subsidiaries or any direct or indirect parent of the Company in connection with any transaction; *provided*, *however*, that the aggregate Restricted Payments made under this clause do not exceed the greater of (i) $25,000,000 and (ii) 5.0% of LTM EBITDA in any calendar year (with unused amounts in any calendar year being carried over to the immediately succeeding calendar year); *provided*, *further*, that such amount in any calendar year may be increased by an amount not to exceed:

(a) the cash proceeds from the sale of Capital Stock (other than Disqualified Stock) of the Company and, to the extent contributed to the capital of the Company, the cash proceeds from the sale of Capital Stock of any direct or indirect parent of the Company, in each case, to any future, present or former employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Company or any of its Subsidiaries or any direct or indirect parent of the Company that occurred after the Closing Date, to the extent the cash proceeds from the sale of such Capital Stock have not otherwise been applied to the payment of Restricted Payments by virtue of clause (b) of Section 7.05(a); *plus*

(b) the cash proceeds of key man life insurance policies received by the Company or its Restricted Subsidiaries (or any direct or indirect parent of the Company to the extent contributed to the Company) after the Closing Date; *less*

(c) the amount of any Restricted Payments made in previous calendar years pursuant to clauses (a) and (b) of this clause;

provided that the Company may elect to apply all or any portion of the aggregate increase contemplated by subclauses (a) and (b) of this clause (6) in any fiscal year; *provided*, *further*, that (i) cancellation of Indebtedness owing to the Company or any Restricted Subsidiary from any future, present or former employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Company or its Restricted Subsidiaries or any direct or indirect parent of the Company in connection with a repurchase of Capital Stock of the Company or any direct or indirect parent thereof and (ii) the repurchase of Capital Stock deemed to occur upon the exercise of options, warrants or similar instruments if such Capital Stock represents all or a portion of the exercise price thereof and payments, in lieu of the issuance of fractional shares of such Capital Stock or withholding to pay other taxes payable in connection therewith, in the case of each of clauses (i) and (ii), will not be deemed to constitute a Restricted Payment for purposes of this covenant or any other provision of this Agreement;

(7) the declaration and payment of dividends on Disqualified Stock of the Company or any of its Restricted Subsidiaries or Preferred Stock of a Restricted Subsidiary, issued in accordance with Section 7.01;

(8) payments made or expected to be made by the Company or any Restricted Subsidiary (including, for purposes of clarity, payments by the Company or any Restricted Subsidiary to an any direct or indirect parent of the Company so that such parent may make payments) in respect of withholding or similar taxes payable in connection with the exercise or vesting of Capital Stock or any other equity award by any future, present or former employee, director, officer, manager, contractor, consultant or advisor (or their respective Controlled Investment Affiliates or Immediate Family Members) of the Company or any Restricted Subsidiary or any direct or indirect parent of the Company and purchases, repurchases,

redemptions, defeasances or other acquisitions or retirements of Capital Stock deemed to occur upon the exercise, conversion or exchange of stock options, warrants, equity-based awards or other rights in respect thereof if such Capital Stock represents a portion of the exercise price thereof or payments in respect of withholding or similar taxes payable upon exercise or vesting thereof;

(9) dividends, loans, advances or distributions to any direct or indirect parent of the Company or other payments by the Company or any Restricted Subsidiary in amounts equal to (without duplication):

(a) the amounts required for any direct or indirect parent of the Company to pay any Parent Entity Expenses or any Permitted Tax Amounts;

(b) amounts constituting or to be used for purposes of making payments to the extent specified in clauses (2), (3), (5), (11), (12), (13), (15) and (19) of Section 6.18(b) and

(c) [reserved];

(10) (a) the declaration and payment of dividends on the common stock or common equity interests of the Company or any direct or indirect parent thereof (and any equivalent declaration and payment of a distribution of any security exchangeable for such common stock or common equity interests to the extent required by the terms of any such exchangeable securities and any Restricted Payment to any such direct or indirect parent to fund the payment by such direct or indirect parent of dividends on such entity's Capital Stock), in an amount in any fiscal year not to exceed $50,000,000 (which permitted amount shall increase by 5.0% each year beginning with the first fiscal year after the fiscal year in which the Spin-Off Date occurs); or (b) in lieu of all or a portion of the dividends permitted by clause (a), any prepayment, purchase, repurchase, redemption, defeasance, discharge, retirement or other acquisition of the Company's Capital Stock (and any equivalent declaration and payment of a distribution of any security exchangeable for such common stock or common equity interests to the extent required by the terms of any such exchangeable securities and any Restricted Payment to any such direct or indirect parent to fund the payment by such direct or indirect parent of dividends on such entity's Capital Stock) for aggregate consideration that, when taken together with dividends permitted by clause (a), does not exceed the amount contemplated by clause (a);

(11) payments by the Company, or loans, advances, dividends or distributions to any direct or indirect parent thereof to make payments, to holders of Capital Stock of the Company or any direct or indirect parent thereof in lieu of the issuance of fractional shares of such Capital Stock; *provided*, *however*, that any such payment, loan, advance, dividend or distribution shall not be for the purpose of evading any limitation of this covenant or otherwise to facilitate any dividend or other return of capital to the holders of such Capital Stock (as determined in good faith by the Company);

(12) Restricted Payments that are made (a) in an amount not to exceed the amount of Excluded Contributions or (b) in an amount equal to the amount of Net Cash Proceeds from an asset sale or Disposition in respect of property or assets acquired, if the acquisition of such property or assets was financed with Excluded Contributions;

(13) (i) the declaration and payment of dividends on Designated Preferred Stock of the Company or any of its Restricted Subsidiaries issued after the Closing Date;

(ii) the declaration and payment of dividends to a direct or indirect parent of the Company in an amount sufficient to allow such direct or indirect parent to pay dividends to holders of its Designated Preferred Stock issued after the Closing Date; and

(iii) the declaration and payment of dividends on Refunding Capital Stock that is Preferred Stock;

provided, *however*, that, in the case of clause (ii), the amount of dividends paid to a Person pursuant to such clause shall not exceed the cash proceeds received by the Company or the aggregate amount contributed in cash to the equity of the Company (other than through the issuance of Disqualified Stock or an Excluded Contribution of the Company), from the issuance or sale of such Designated Preferred Stock; *provided*, that in the case of clauses (i) and (iii), for the most recently ended four fiscal quarters for which consolidated financial statements are available (which may, at the Company's election, be internal financial statements) immediately preceding the date of issuance of such Designated Preferred Stock or declaration of such dividends on such Refunding Capital Stock, after giving effect to such payment on a pro forma basis, the Company would be permitted to incur at least $1.00 of additional Indebtedness pursuant to the test set forth in Section 7.01(a);

(14) distributions, by dividend or otherwise, or other transfer or disposition of shares of Capital Stock of, or equity interests in, an Unrestricted Subsidiary (or a Restricted Subsidiary that owns one or more Unrestricted Subsidiaries and no other material assets), or Indebtedness owed to the Company or a Restricted Subsidiary by an Unrestricted Subsidiary (or a Restricted Subsidiary that owns one or more Unrestricted Subsidiaries and no other material assets), in each case, other than Unrestricted Subsidiaries, substantially all the assets of which are cash and Cash Equivalents or proceeds thereof;

(15) distributions or payments of Securitization Fees, sales contributions and other transfers of Securitization Assets or Receivables Assets and purchases of Securitization Assets or Receivables Assets pursuant to a Securitization Repurchase Obligation, in each case in connection with a Qualified Securitization Financing or Receivables Facility;

(16) any Restricted Payment made in connection with the Transactions (including, for the avoidance of doubt, the Special Payment) and any fees, costs and expenses (including all legal, accounting and other professional fees, costs and expenses) related thereto, including Transaction Costs, or used to fund amounts owed to Affiliates in connection with the Transactions (including dividends to any direct or indirect parent of the Company to permit payment by such direct or indirect parent of such amounts);

(17) (i) Restricted Payments (including loans or advances) in an aggregate amount outstanding at the time made not to exceed the greater of (a) $175,000,000 and (b) 35.0% of LTM EBITDA at such time, and (ii) any Restricted Payments, so long as, (x) immediately after giving pro forma effect to the payment of any such Restricted Payment and the incurrence of any Indebtedness the net proceeds of which are used to make such Restricted Payment, the Consolidated Total Net Leverage Ratio shall be no greater than 2.10 to 1.00 and (y) no Event of Default pursuant to Section 8.01(a), (f) or (g) shall have occurred or be continuing;

(18) mandatory redemptions of Disqualified Stock issued as a Restricted Payment or as consideration for a Permitted Investment;

(19) (i) the redemption, defeasance, repurchase, exchange or other acquisition or retirement of Subordinated Indebtedness of the Company or any Guarantor or the making of any Restricted Investment in an aggregate amount outstanding at the time made, taken together with all other redemptions, defeasances, repurchases, exchanges or other acquisitions or retirements of Subordinated Indebtedness or Restricted Investments made pursuant to this clause, not to exceed the greater of (a) $200,000,000 and (b) 40.0% of LTM EBITDA at such time, and (ii) the redemption, defeasance, repurchase, exchange or other acquisition or retirement of Subordinated Indebtedness or Restricted Investments of the Company or any Guarantor, so long as, (x) immediately after giving pro forma effect to the payment of any such Restricted Payment and the incurrence of any Indebtedness the net proceeds of which are used to make such Restricted Payment, the Consolidated Total Net Leverage Ratio shall be no greater than 2.60 to 1.00 and (y) no Event of Default pursuant to Section 8.01(a), (f) or (g) shall have occurred or be continuing;

(20) payments or distributions to dissenting stockholders pursuant to applicable law (including in connection with, or as a result of, exercise of dissenters' or appraisal rights and the settlement of any claims or action (whether actual, contingent or potential)), pursuant to or in connection with a merger, amalgamation, consolidation or transfer of assets that complies with Section 7.03;

(21) Restricted Payments to a direct or indirect parent of the Company to finance Investments that would otherwise be permitted to be made pursuant to this covenant if made by the Company; *provided* that (a) such Restricted Payment shall be made substantially concurrently with the closing of such Investment (or anytime following the closing of such Investment with respect to earn-out or similar payments), (b) such direct or indirect parent shall, promptly following the closing thereof, cause (1) all property acquired (whether assets or Capital Stock) to be contributed to the capital of the Company or one of its Restricted Subsidiaries or (2) the merger or amalgamation of the Person formed or acquired by or merged or consolidated with the Company or one of its Restricted Subsidiaries (to the extent not prohibited by Section 7.03) to consummate such Investment, (c) such direct or indirect parent and its Affiliates (other than the Company or a Restricted Subsidiary) receives no consideration or other payment in connection with such transaction except to the extent the Company or a Restricted Subsidiary could have given such consideration or made such payment in compliance with this Agreement, (d) any property received by the Company shall not increase amounts available for Restricted Payments pursuant to clause (b) of Section 7.05(a), except to the extent the fair market value at the time of such receipt of such property exceeds the Restricted Payment made pursuant to this clause and (e) such Investment shall be deemed to be made by the Company or such Restricted Subsidiary pursuant to another provision of this covenant (other than pursuant to clause (12) hereof) or pursuant to the definition of "Permitted Investment" (other than pursuant to clause (12) thereof);

(22) investments or other Restricted Payments in an aggregate amount not to exceed an amount equal to the Retained Declined Proceeds;

(23) any Restricted Payment made in connection with a Permitted Intercompany Activity, Permitted Tax Restructuring or related transactions; and

(24) any Restricted Payment payable solely in the Capital Stock of any Parent Holding Company.

(c) For purposes of determining compliance with this covenant, in the event that a Restricted Payment or Investment (or portion thereof) meets the criteria of more than one of the categories of Permitted Payments described in the clauses above, or is permitted pursuant to Section 7.05(a) and/or one or more of the clauses contained in the definition of "Permitted Investment," the Company will be entitled to divide or classify (or later divide, classify or reclassify in whole or in part in its sole discretion) such Restricted Payment or Investment (or portion thereof) in any manner that complies with this covenant, including as an Investment pursuant to one or more of the clauses contained in the definition of "Permitted Investment"; *provided* that any Restricted Payment permitted pursuant to one of the clauses of Section 7.05(b) (other than Section 7.05(b)(17)(ii) or Section 7.05(b)(19)(ii), as applicable) shall automatically cease to be deemed permitted or outstanding for purposes of such clause of Section 7.05(b), and shall automatically be deemed permitted for the purposes of Section 7.05(b)(17)(ii) or Section 7.05(b)(19)(ii), as applicable, from and after the first date on which the Company or its Restricted Subsidiaries could have incurred such Restricted Payment under Section 7.05(b)(17)(ii) or Section 7.05(b)(19)(ii), as applicable, without reliance on such other clause of Section 7.01(b); *provided*, *further*, that any Investment permitted pursuant to one of the clauses of the definition of "Permitted Investment" (other than clause (34)(ii) thereof) shall automatically cease to be deemed permitted or outstanding for purposes of such clause of the definition of "Permitted Investment" and shall automatically be deemed permitted for the purposes of clause (34)(ii) thereof from and after the first date on which the Company or its Restricted Subsidiaries could have incurred such Investment under clause (34)(ii) of the definition of "Permitted Investment" without reliance on such other clause of such definition.

The amount of all Restricted Payments (other than cash) shall be the fair market value on the date of such Restricted Payment of the asset(s) or securities proposed to be paid, transferred or issued by the Company or such Restricted Subsidiary, as applicable, pursuant to such Restricted Payment. The fair market value of any cash Restricted Payment shall be its face amount, and the fair market value of any non-cash Restricted Payment, property or assets other than cash shall be determined conclusively by the Company acting in good faith.

In connection with any commitment, definitive agreement or similar event relating to an Investment, the Company or the applicable Restricted Subsidiary may designate such Investment as having occurred on the date of the commitment, definitive agreement or similar event relating thereto (such date, the "**Election Date**") if, after giving pro forma effect to such Investment and all related transactions in connection therewith and any related pro forma adjustments, the Company or any of its Restricted Subsidiaries would have been permitted to make such Investment on the relevant Election Date in compliance with this Agreement, and any related subsequent actual making of such Investment will be deemed for all purposes under this Agreement to have been made on such Election Date, including for purposes of calculating any ratio, compliance with any test, usage of any baskets hereunder (if applicable) and Consolidated EBITDA and for purposes of determining whether there exists any Default or Event of Default (and all such calculations on and after the Election Date until the termination, expiration, passing, rescission, retraction or rescindment of such commitment, definitive agreement or similar event shall be made on a pro forma basis giving effect thereto and all related transactions in connection therewith); *provided* that the foregoing shall not limit the application of Section 1.02(i), to the extent applicable.

If the Company or a Restricted Subsidiary makes a Restricted Payment which at the time of the making of such Restricted Payment would in the good faith determination of the Company be permitted under the provisions of this Agreement, such Restricted Payment shall be deemed to have been made in compliance with this Agreement notwithstanding any subsequent adjustments made in good faith to the Company's financial statements affecting Consolidated Net Income or Consolidated EBITDA of the Company for any period.

For the avoidance of doubt, this covenant shall not restrict the making of, or dividends or other distributions in amounts sufficient to make, any AHYDO Catch-up Payment with respect to any Indebtedness of any direct or indirect parent of the Company, the Company or any of its Restricted Subsidiaries permitted to be incurred under this Agreement.

Section 7.06 Burdensome Agreements.

(a) Create or otherwise cause or permit to exist or become effective any consensual encumbrance or consensual restriction on the ability of any Loan Party other than the Company to pay dividends or make any other distributions on its Capital Stock;

provided that (x) the priority of any Preferred Stock in receiving dividends or liquidating distributions prior to dividends or liquidating distributions being paid on common stock and (y) the subordination of (including the application of any standstill requirements to) loans or advances made to the Company or any Restricted Subsidiary to other Indebtedness incurred by the Company or any Restricted Subsidiary shall not be deemed to constitute such an encumbrance or restriction.

(b) The provisions of Section 7.06(a) will not prohibit:

(1) any encumbrance or restriction (x) for the benefit of the Lenders with respect to the Facilities and the Obligations or under the Loan Documents or (y) pursuant to any instrument or agreement in effect at or entered into on the Spin-Off Date;

(2) any encumbrance or restriction pursuant to the Senior Secured Notes Documents;

(3) any encumbrance or restriction pursuant to applicable law, rule, regulation or order;

(4) any encumbrance or restriction pursuant to an agreement or instrument of a Person or relating to any Capital Stock or Indebtedness of a Person, entered into on or before the date on which such Person was acquired by or merged, consolidated or otherwise combined with or into the Company or any Restricted Subsidiary, or was designated as a Restricted Subsidiary or on which such agreement or instrument is assumed by the Company or any Restricted Subsidiary in connection with an acquisition of assets (other than Capital Stock or Indebtedness incurred as consideration in, or to provide all or any portion of the funds utilized to consummate, the transaction or series of related transactions pursuant to which such Person became a Restricted Subsidiary or was acquired by the Company or was merged, consolidated or otherwise combined with or into the Company or any Restricted Subsidiary or entered into in contemplation of or in connection with such transaction) and outstanding on such date; *provided* that, for the purposes of this clause, if another Person is the successor company, any Subsidiary of such Person or agreement or instrument of such Person or any such Subsidiary shall be deemed acquired or assumed by the Company or any Restricted Subsidiary when such Person becomes the successor company;

(5) any encumbrance or restriction:

(a) that restricts in a customary manner the subletting, assignment or transfer of any property or asset that is subject to a lease, license or similar contract or agreement, or the assignment or transfer of any lease, license or other contract or agreement;

(b) contained in mortgages, pledges, charges or other security agreements permitted under this Agreement or securing Indebtedness of the Company or a Restricted Subsidiary permitted under this Agreement to the extent such encumbrances or restrictions restrict the transfer or encumbrance of the property or assets subject to such mortgages, pledges, charges or other security agreements;

(c) contained in any trading, netting, operating, construction, service, supply, purchase, sale or other agreement to which the Company or any of its Restricted Subsidiaries is a party entered into in the ordinary course of business or consistent with past practice; *provided* that such agreement prohibits the encumbrance of solely the property or assets of the Company or such Restricted Subsidiary that are subject to such agreement, the payment rights arising thereunder or the proceeds thereof and does not extend to any other asset or property of the Company or such Restricted Subsidiary or the assets or property of another Restricted Subsidiary; or

(d) pursuant to customary provisions restricting dispositions of real property interests set forth in any reciprocal easement agreements of the Company or any Restricted Subsidiary;

(6) any encumbrance or restriction pursuant to Purchase Money Obligations and Capitalized Lease Obligations permitted under this Agreement, in each case, that impose encumbrances or restrictions on the property so acquired;

(7) any encumbrance or restriction imposed pursuant to an agreement entered into for the direct or indirect sale or disposition to a Person of all or substantially all the Capital Stock or assets of the Company or any Restricted Subsidiary (or the property or assets that are subject to such restriction) pending the closing of such sale or disposition;

(8) customary provisions in leases, licenses, equityholder agreements, joint venture agreements, organizational documents and other similar agreements and instruments;

(9) encumbrances or restrictions arising or existing by reason of applicable law or any applicable rule, regulation or order, or required by any regulatory authority;

(10) any encumbrance or restriction on cash or other deposits or net worth imposed by customers under agreements entered into in the ordinary course of business or consistent with past practice;

(11) any encumbrance or restriction pursuant to Swap Obligations;

(12) other Indebtedness, Disqualified Stock or Preferred Stock of Non-Loan Party Subsidiaries permitted to be incurred or issued subsequent to the Closing Date pursuant to the provisions of Section 7.01 that impose restrictions solely on the Non-Loan Party Subsidiaries party thereto and/or their Subsidiaries;

(13) restrictions created in connection with any Qualified Securitization Financing or Receivables Facility that, in the good faith determination of the Company, are necessary or advisable to effect such Securitization Facility or Receivables Facility;

(14) any encumbrance or restriction arising pursuant to an agreement or instrument relating to any Indebtedness permitted to be incurred subsequent to the Closing Date pursuant to the provisions of the covenant described under Section 7.01 if (i) the encumbrances and restrictions contained in any such agreement or instrument taken as a whole are not materially less favorable to the Lenders than the encumbrances and restrictions contained in this Agreement, together with the security documents associated therewith, or the Senior Secured Notes Documents as in effect on the Closing Date or (ii) either (a) the Company determines at the time of entry into such agreement or instrument that such encumbrances or restrictions will not adversely affect, in any material respect, any Borrower's ability to make principal or interest payments on the Loans or (b) such encumbrance or restriction applies only during the continuance of a default in respect of a payment relating to such agreement or instrument;

(15) any encumbrance or restriction existing by reason of any lien permitted under Section 7.02;

(16) any encumbrance or restriction arising pursuant to the Transaction Documents; or

(17) any encumbrance or restriction pursuant to an agreement or instrument effecting a refinancing of Indebtedness incurred pursuant to, or that otherwise refinances, an agreement or instrument referred to in the clauses above or this clause (an "**Initial Agreement**") or contained in any amendment, supplement or other modification to an agreement referred to in the clauses above or this clause; *provided*, *however*, that the encumbrances and restrictions with respect to such Guarantor contained in any such agreement or instrument are no less favorable in any material respect to the Lenders taken as a whole than the encumbrances and restrictions contained in the Initial Agreement or Initial Agreements to which such refinancing or amendment, supplement or other modification relates (as determined in good faith by the Company).

Section 7.07 Accounting Changes. Make any change in fiscal year; *provided*, *however*, that the Company 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 Company 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 Company, as applicable, to reflect such change in fiscal year.

Section 7.08 Financial Covenant. With respect to the Revolving Credit Facility only, permit the Consolidated First Lien Net Leverage Ratio as of the end of each fiscal quarter of the Company (commencing with the first full fiscal quarter to commence after the Closing Date) to be greater than 4.75 to 1.00 (the "**Financial Covenant**").

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 fails to pay (i) when due and as required to be paid herein, any amount of principal of any Loan or (ii) within five Business Days after the same becomes due and payable, any interest on any Loan or on any L/C Obligation, any fee due hereunder or any other amount payable hereunder or with respect to any other Loan Document; or

(b) Specific Covenants. Any Borrower or any other Loan Party fails to perform or observe any term, covenant or agreement contained in any of Section 6.05(a) (solely with respect to any Borrower) or 6.11 (solely with respect to Section 5.07) or in any Section of Article VII (subject to, in the case of the Financial Covenant, the proviso at the end of this clause (b)); *provided*, that a Default or Event of Default under Section 7.08 (a "**Financial Covenant Event of Default**") shall not constitute an Event of Default with respect to any Term Facility or any Specified Refinancing Debt (unless refinancing the Revolving Credit Facility) (or, if applicable, for any New Revolving Facility that has elected to not receive the benefit of the Financial Covenant) 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 and such termination and acceleration has not been rescinded; or

(c) Other Defaults. Any Loan Party 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 30 days after notice thereof by the Administrative Agent to the Company; or

(d) Representations and Warranties. Any representation, warranty, certification or statement of fact made or deemed made by or on behalf of any Borrower or any other Loan Party 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 30 days after it was initially made; or

(e) Cross-Default. Any Loan Party or any Restricted Subsidiary:

(A) 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 (any such Indebtedness, "**Material Indebtedness**");

(B) fails to observe or perform any other agreement relating to Material Indebtedness, or any other event occurs under Material Indebtedness (other than 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 (C) below), and any applicable grace or cure period under the applicable Material Indebtedness has expired, such that the holder or holders of such Material Indebtedness (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) have caused, or are permitted to cause such Indebtedness to become due, in each case, prior to its Stated Maturity; *provided* that this clause (e)(B) shall not apply to (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 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 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 this clause (e)(B) shall automatically cease to apply if the applicable failure or event giving rise hereto is validly waived by the holders of such Material Indebtedness in accordance with the terms of the documents governing such Material Indebtedness prior to any termination of the Revolving Credit Commitments or acceleration of the Loans pursuant to Section 8.02; or

(C) fails to observe or perform any other agreement relating to any Material Indebtedness containing or otherwise requiring observance or compliance with a financial maintenance covenant and the holder or holders of such Material Indebtedness (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) have caused such Indebtedness to become due, prior to its Stated Maturity ("**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; or

(f) Insolvency Proceedings, Etc. Any Borrower or any Material Subsidiary:

(i) institutes, resolves to institute or consents to the institution of any proceeding under any Debtor Relief Law, in each case relating to a winding-up, an administration, a dissolution, or a composition thereof;

(ii) makes an assignment for the benefit of creditors or any other action is commenced (by way of voluntary arrangement, scheme of arrangement or otherwise);

(iii) appoints, resolves to appoint, 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 (any such person, a "**Custodian**") for it or for all or substantially all of its property;

(iv) has a Custodian appointed with respect thereto without the application or consent of such Person and the appointment continues undischarged or unstayed for 60 days; or

(v) becomes subject to any proceeding under any Debtor Relief Law (including, without limitation, for the appointment of any Custodian with respect thereto) relating to such Person or to all or substantially all of its property without the consent of such Person, and such proceeding continues undismissed or unstayed for 60 days; or

(g) Inability to Pay Debts; Attachment. (i) Any Borrower or any Material Subsidiary admits in writing its inability or fails generally to pay its debts as they become due, or (ii) any writ or warrant of attachment or execution or similar process is issued, commenced or levied against all or substantially all of the property of any such Person and is not released, vacated or fully bonded within 60 days after its issue, commencement or levy; or

(h) Judgments. There is entered against any Loan Party or any Material 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 60 consecutive days 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 or there is or arises an Unfunded Pension Liability (taking into account only Plans with positive Unfunded Pension Liability) which ERISA Event or ERISA Events or Unfunded Pension Liability or Unfunded Pension Liabilities results or would reasonably be expected to result in liability of any Loan Party in an aggregate amount which would reasonably be expected to result in a Material Adverse Effect or (ii) any Loan Party 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 could reasonably be expected to result in liability of any Loan Party in an aggregate amount which would reasonably be expected to result in a Material Adverse Effect; or

(j) Invalidity of Certain Loan Documents. Any material provision of any Collateral Document and/or any Guaranty (in each case, subject to 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) or satisfaction in full of all the Obligations (other than any Remaining Obligations) 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 (viii) 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 days of receiving said notice); or any Lien purported to be created under the Collateral Documents and to extend to assets that are material to the Company and its Subsidiaries on a consolidated basis shall cease to be a valid and perfected Lien on the assets covered thereby (except to the extent that any such loss of perfection results from the failure of the Collateral Agent to maintain possession of certificates actually delivered to it representing securities pledged under the Collateral Documents or to file UCC continuation statements and except to the extent that such loss is covered by a lender's title insurance policy and the Administrative Agent shall be reasonably satisfied with the credit of such insurer); or any Loan Party contests in writing the validity or enforceability of any provision of this Agreement, any Collateral Document and/or any Guaranty; or any Loan Party denies in writing that it has any or further liability or obligation under any Collateral Document or Guaranty (other than as a result of repayment in full of the Obligations (other than any Remaining Obligations) and termination of the Aggregate Commitments), or purports in writing to revoke or rescind any Collateral Document or Guaranty or the Liens created thereby (except as otherwise expressly provided in this Agreement or the Collateral Documents);

(k) Change of Control. There occurs any Change of Control; or

(l) Spin-Off Date. (i) The Spin-Off Date does not occur on the Closing Date or on the Business Day immediately following the Closing Date and (ii) any Loan Party fails to perform or observe any term, covenant or agreement contained in Section 6.16(A) on the Spin-Off Date.

Notwithstanding anything to the contrary in this Agreement, no Event of Default or breach of any representation or warranty in Article V or any covenant in Article VI or VII shall constitute a Default or Event of Default if such Event of Default or breach of such representation or warranty in Article V or such covenant in Article VI or VII would not have occurred but for a fluctuation (or other adverse change) in Exchange Rates.

Section 8.02 Remedies upon Event of Default. If any Event of Default occurs 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 may, or at the request of the Required Lenders shall (and, if a Financial Covenant Event of Default occurs and is continuing, the Administrative Agent may, or at the request of the Required Revolving Lenders only shall, and in such case, without limiting the proviso to Section 8.01(b), only with respect to the Revolving Credit Facility, any Letters of Credit, L/C Credit Extensions and L/C Obligations), take any or all of the following actions:

(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 Section 8.01(f) or (g) (with respect to any Borrower or any other Loan Party) or Section 8.01(l), 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.

Notwithstanding anything herein to the contrary or in any other Loan Document, neither the Administrative Agent nor, for the avoidance of doubt, any Lender, may exercise any remedies or otherwise take any other action with respect to any Default or Event of Default for which notice has been provided to the Administrative Agent or the Lenders, or otherwise reported publicly, more than two years prior to such exercise of remedies or other action; *provided* that such two year limitation shall not apply if (i) the Administrative Agent has commenced any remedial action in respect of any such Default or Event of Default or (ii) any Loan Party has actual knowledge of such Default or Event of Default and failed to notify the Administrative Agent as required hereby.

Section 8.03 [Reserved].

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 subject to the terms of the First Lien Pari Passu Intercreditor Agreement 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, Section 10.05 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 and the L/C Borrowings, that portion of the Obligations of the Loan Parties then owing in respect of regularly scheduled payments or termination payments (whether as a result of the occurrence of any event of default or other termination event) under the Secured Hedge Agreements and that portion of the Obligations of the Loan Parties then owing under 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 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, and not otherwise paid pursuant to clause (e) above, 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 any Remaining Obligations), 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 applicable. 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 and each Secured Party that the Administrative Agent and Collateral Agent shall have no 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, or material breach of the Loan Documents by, 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 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 or the First Lien Pari Passu Intercreditor Agreement, and the Administrative Agent and the Collateral Agent shall be entitled to wait for, and may conclusively rely on, any such determination.

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 MS and its successors and permitted assigns 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. The provisions of this Article (other than Sections 9.09, 9.11, 9.13, 9.14 and 9.15 to the extent of the rights of the Company or the other Loan Parties and the obligations and agreements of the Administrative Agent, the Lenders and the other Secured Parties for the benefit of the Company or the other Loan Parties, in each case expressly set forth therein) are solely for the benefit of the Administrative Agent and the Lenders, and no Loan Party shall have rights as a third party beneficiary of any of such provisions. 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.

(c) The Administrative Agent shall also act as the Collateral Agent under the Loan Documents, and 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 the Administrative Agent to act as the agent of (and to hold any security interest, charge or other Lien created by the Collateral Documents for) such Lender for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted by any of the Loan Parties to secure any of the Secured Obligations, together with such powers and discretion as are reasonably incidental thereto. In this connection, 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), 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 (i) the Administrative Agent and Collateral Agent, as applicable, to execute and deliver, and to perform its obligations under, each of the Loan Documents to which the Administrative Agent is a party and (ii) the Administrative Agent and the Collateral Agent, as applicable, to execute and deliver, and to perform its obligations under, 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 any 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).

Section 9.02 Delegation of Duties. The Administrative Agent 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. The Administrative 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 agent or attorney-in-fact that it selects in the absence of gross negligence or willful misconduct by the Administrative Agent, as determined by a final non-appealable judgment by a court of competent jurisdiction. 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 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.

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, willful misconduct or material breach of the Loan Documents 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 or its Related Parties under or in connection with this Agreement or any other Loan Document (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, willful misconduct or material breach of the Loan Documents 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 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 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. 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 a 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 any Net Short Lender.

(b) As to any matters not expressly provided for herein and in the other Loan Documents (including enforcement or collection), neither the Administrative Agent nor the Collateral Agent, as applicable, shall be required to exercise any discretion or take any action, but shall be required to act or to refrain from acting (and shall be fully protected in so acting or refraining from acting) upon the written instructions of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, pursuant to the terms in the Loan Documents), and, unless and until revoked in writing, such instructions shall be binding upon each Lender and each L/C Issuer; *provided*, *however*, that neither the Administrative Agent nor the Collateral Agent, as applicable, shall be required to take any action that (i) the Administrative Agent or the Collateral Agent, as applicable, in good faith believes exposes it to liability unless the Administrative Agent or the Collateral Agent, as applicable, receives an indemnification satisfactory to it from the Lenders and the L/C Issuers with respect to such action or (ii) is contrary to this Agreement or any other 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. Neither the Administrative Agent nor the Collateral Agent, as applicable, shall have any duty to disclose, except as expressly set forth herein and in the other Loan Documents, and shall not 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.

Section 9.04 Reliance by Agents.

(a) 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, telex or telephone message, electronic mail message, Internet or intranet website posting or other distribution statement or other document or conversation 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 that by its terms must be fulfilled to the satisfaction of a Lender, the Administrative Agent may presume that such condition is satisfactory to such Lender unless the Administrative Agent shall have received notice to the contrary from such Lender prior to the making of such Loan. 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 greater 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 greater 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.

(b) For purposes of determining compliance with the conditions specified in Sections 4.01 and 4.02, 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 written notice from such Lender prior to the proposed Closing Date, specifying its objection thereto.

Section 9.05 Notice of Default. The Administrative Agent shall not 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 the Administrative Agent for the account of the Lenders, unless the Administrative Agent shall have received written notice from a Lender or a Borrower referring to this Agreement, describing 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. Notwithstanding anything herein to the contrary, the Administrative Agent shall not be liable for, or be responsible for any loss, cost or expense suffered by the Borrower, any Subsidiary, any Lender or any L/C Issuer as a result of any determination of the outstanding Revolving Credit Commitments, any of the component amounts thereof or any portion thereof attributable to each Lender or L/C Issuer, or any Exchange Rate or Dollar-equivalent in the absence of its own gross negligence, bad faith, willful misconduct or material breach of the Loan Documents 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.

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 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 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. Except for notices, reports and other documents expressly required to be furnished to the Lenders by any Agent herein, 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 or any of their respective Affiliates which may come into the possession of any Agent-Related Person. Each Lender, by delivering its signature page to this Agreement on the Closing Date, or delivering its signature page to an Assignment and Assumption or any other Loan Document pursuant to which it shall become a Lender hereunder, shall be deemed to have acknowledged receipt of, and consented to and approved, each Loan Document and each other document required to be delivered to, or be approved by or satisfactory to, the Administrative Agent or the Lenders on the Closing Date.

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 or Collateral Agent may resign as the Administrative Agent or Collateral Agent, as applicable, upon 30 days' written notice to the Company 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 Company, each, in its sole discretion, then the resigning Agent, the incoming Agent and the Company may agree to waive or shorten the 30 day notice period. If the Administrative Agent or Collateral Agent or a controlling Affiliate of the Administrative Agent or the Collateral Agent is subject to an Agent-Related Distress Event, the Company may remove such Agent from such role upon ten days' written notice to the Lenders. Upon receipt of any such notice of resignation or removal, the Required Lenders shall appoint from among the Lenders a successor agent for the Lenders, which successor agent shall be subject to the consent of the Company 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 Company shall not be unreasonably withheld 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 or if the Administrative Agent is being removed as a result of it being a Disqualified Institution), as applicable, may appoint, after consulting with the Lenders

and the Company, 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 by the date which is 30 days following the retiring Administrative Agent's or Collateral Agent's 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 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; it being understood that the agency fees payable to the successor of such Agent shall be the same as those payable to the retiring Agent, unless otherwise agreed to by the Borrowers and the successor of such Agent), (ii) except for any indemnity payments or other amounts owed to the retiring Agent, 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 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 agent 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 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 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 30-day period following the retiring Administrative Agent's or Collateral Agent's notice of resignation or removal without a successor agent 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 may be removed as the Administrative Agent or Collateral Agent hereunder at the request of the Company and the Required Lenders.

(b) Any resignation by or removal of MS as Administrative Agent and/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 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 and/or Collateral Agent hereunder or upon the expiration of the 30-day period following the retiring Administrative Agent's and/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 applicable Borrower 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 any Borrower) shall be entitled and empowered, 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 Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders and the Administrative Agent and their respective agents and counsel to the extent provided for herein and all other amounts due the Lenders and the Administrative Agent under Sections 2.03(h) and (i), 2.09 and 10.04) allowed in such judicial proceeding; and

(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 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 the Administrative Agent 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 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 to authorize the Administrative Agent to vote in respect of the claim of any Lender 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 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 the Collateral Agent, as applicable, on behalf of the Secured Parties in accordance with the terms thereof. Each Secured Party agrees that it shall not, and hereby waives any right to, take or institute any actions or

proceedings, judicial or otherwise, for any such right or remedy under any Loan Document against any Loan Party or any past, present, or future Subsidiary of any Loan Party concerning any Collateral, or any other property of any Loan Party or any past, present or future Loan Party other than through the Administrative Agent or the Collateral Agent, as applicable; *provided*, that, for the avoidance of doubt, this sentence may be enforced against any Secured Party by the Required Lenders, any Agent or any Borrower (or any of its Affiliates) and each Secured Party expressly acknowledge that this sentence shall be available as a defense of any Borrower (or any of its Affiliates) in any such action, proceeding or remedial procedure. Each Secured Party, whether or not a party hereto, will be deemed, by its acceptance of the benefits of the Collateral and of the Guarantees of the Obligations, to have agreed to the foregoing provisions. 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) and each L/C Issuer, the Administrative Agent and the Collateral Agent hereby irrevocably agree:

(a) that any Lien on any property granted to or held by the Administrative Agent or Collateral Agent under any Loan Document shall be automatically released (and following such automatic release the Administrative Agent or Collateral Agent shall execute any appropriate release documentation to document or evidence such release at the Company's reasonable request and sole expense):

(i) upon termination of the Aggregate Commitments and payment in full of all Obligations in cash and in immediately available funds (other than any Remaining Obligations) and the expiration without any pending drawing or termination of all Letters of Credit (other than any Remaining Obligations),

(ii) if the property subject to such Lien is sold, disposed of or distributed as part of or in connection with any transaction or series of related transactions not prohibited hereunder or under any other Loan Document, in each case to a Person that is not a Loan Party (including pursuant to any Receivables Facility permitted under this Agreement),

(iii) subject to Section 10.01, if such release is approved, authorized or ratified in writing by the Required Lenders,

(iv) if the property subject to such Lien constitutes or becomes Excluded Property as a result of an occurrence not prohibited hereunder, or

(v) if the property subject to such Lien is owned by a Guarantor or Co-Borrower, upon release of such Guarantor or Co-Borrower from its obligations under its Guaranty, any Collateral Document or hereunder, as applicable, pursuant to clause (c) below;

(b) that any Lien on any property granted to or held by the Administrative Agent or Collateral Agent under any Loan Document shall be automatically released and/or subordinated, as applicable, to the holder of any Permitted Lien on such property that is permitted by clauses (1), (5), (6) (only with regard to Section 7.01(b)), (8), (9), (11), (12), (14), (16), (17) (other than with respect to self-insurance arrangements), (18) (solely to the extent constituting Excluded Property), (20), (21), (22), (23) (solely to the extent relating to a lien of the type allowed pursuant to clauses (8), (9), (11) (solely with respect to cash deposits) of the definition thereof), (25) (solely to the extent relating to a lien of the type allowed pursuant to clause (6) of the definition of "Permitted Liens" and securing obligations under Indebtedness of the type allowed pursuant to Section 7.01(b)), (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), (27), (29) (solely with respect to cash deposits), (33), (34), (39) (only for so long as required to be secured for such letter of intent or investment) and (45) of the definition thereof (and following such automatic release and/or subordination the Administrative Agent or Collateral Agent shall execute any appropriate documentation to document or evidence such release and/or subordination at the Company's reasonable request and sole expense);

(c) that any Guarantor or any Co-Borrower shall be automatically released from its obligations under the applicable Guaranty, Collateral Document or hereunder, as applicable (and following such automatic release the Administrative Agent or Collateral Agent shall execute any appropriate documentation to document or evidence such release and/or subordination at the Company's reasonable request and sole expense):

(i) if in the case of any Subsidiary, such Person ceases to be a Restricted Subsidiary or otherwise becomes an Excluded Subsidiary as a result of a transaction or designation permitted hereunder (other than upon the basis of such Subsidiary becoming a non-Wholly Owned Subsidiary as a result of (x) a transaction that is not bona fide or (y) the sale of its Equity Interests with the sole intention to release such Subsidiary from its Guarantee of the Obligations); *provided* that no such release shall occur if such Guarantor or Co-Borrower continues to be a guarantor or co-borrower, as applicable, in respect of any Indebtedness for borrowed money of the Company or a Guarantor or a Co-Borrower (in each case, other than any Guarantor or Co-Borrower that will simultaneously cease to be a Restricted Subsidiary or an Excluded Subsidiary), in an aggregate outstanding principal amount in excess of $300,000,000; *provided*, *however*, that, if such other Indebtedness will permit the release of such Subsidiary if such Subsidiary is released from its obligations hereunder, then such Subsidiary shall be released pursuant to this clause (i), notwithstanding the foregoing proviso; *provided*, *however*, that no Co-Borrower shall be released unless the Company has notified the Administrative Agent that such Borrower has ceased to be a Restricted Subsidiary as a result of a transaction permitted by this Agreement, and the Company has expressly assumed the Loans and other Obligations of the Co-Borrower under the Loan Documents;

(ii) upon termination of the Aggregate Commitments and payment in full of all Obligations in cash and in immediately available funds (other than any Remaining Obligations) and the expiration without any pending drawing or termination of all Letters of Credit (other than any Remaining Obligations); or

(iii) if such Guarantor (subject, in the case of a Co-Borrower, to such Co-Borrower's resignation as a Co-Borrower in accordance with the terms hereof) was designated as such pursuant to the last sentence of Section 6.12, if the Company so requests, so long as any Indebtedness of such Subsidiary then outstanding could have been incurred by such Subsidiary (either (x) when so incurred or (y) at the time of the release of such Guarantee) and such Subsidiary is not otherwise required to be a Guarantor at the time of such release in accordance with the provisions of this Agreement or the other Loan Documents; and

(d) [reserved];

(e) that they shall establish, enter into (or amend, renew, extend, supplement, restate, waive or otherwise modify) intercreditor arrangements as expressly contemplated by this Agreement (including, without limitation, those consistent with either (x) the terms of Exhibit G-1 or G-2 (which shall be deemed satisfactory to the Administrative Agent and Collateral Agent) or (y) any other terms set forth in this Agreement, in each case, to the extent the Indebtedness being incurred and secured in connection therewith is not prohibited from being incurred under Section 7.01 and 7.02 of this Agreement, which the Administrative Agent and Collateral Agent shall be required to enter into upon the delivery of a certificate described in the following paragraph).

(f) notwithstanding anything to the contrary provided herein or in any other Loan Document, that upon the occurrence of the BD Guaranty Release Date, BD shall be automatically released from all of its obligations under this Agreement and the BD Guaranty and shall have no further liability or obligation whatsoever hereunder or under the BD Guaranty or any other Loan Document (the "BD Guaranty Release").

In each case as specified in this Section 9.11, the applicable Agent will (and each Lender irrevocably authorizes the applicable Agent to), at the Company's expense, execute and deliver to the applicable Loan Party such documents as such Loan Party 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 or Co-Borrower from its obligations under the Guaranty or Collateral Documents, in each case in accordance with the terms of the Loan Documents and this Section 9.11.

Additionally, upon reasonable request of the Company, the Collateral Agent will return possessory Collateral held by it that is released from the security interests created by the Collateral Documents pursuant to this Section 9.11; *provided* that in each case of this Section 9.11, prior to the Administrative Agent's or Collateral Agent's execution of any release or intercreditor documentation (but without effecting the automatic nature of the releases and subordinations described in this Section 9.11), upon the Collateral Agent's reasonable request, the Company shall deliver to the Administrative Agent and Collateral Agent a certificate of a Responsible Officer of the Company certifying that any such transaction has been consummated in compliance with this Agreement and the other Loan Documents and that such release is not prohibited hereby. In the event that the Collateral Agent loses or misplaces any possessory collateral delivered to the Collateral Agent by the Company, upon reasonable request of the Company the Collateral Agent shall provide a loss affidavit to the Company, in the form customarily provided by the Collateral Agent in such circumstances.

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 "documentation agent," "joint lead arranger," or "joint bookrunner" 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 that Arranger under any Loan Document. 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 applicable. 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 any Borrower or any other Loan Party 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 Company shall, or shall cause such Loan Party 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 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 Supplemental Agent.

(d) In the event that any Borrower appoints or designates any Incremental Arranger, Incremental Equivalent Debt Arranger or Specified Refinancing Agent pursuant to Sections 2.14, 2.15 and 2.18, as applicable, (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 an agent or arranger with respect to New Loan Commitments, Incremental Equivalent Debt or Specified Refinancing Debt, as applicable, shall be exercisable by and vest in such Incremental Arranger, Incremental Equivalent Debt Arranger or Specified Refinancing Agent to the extent, and only to the extent, necessary to enable such Incremental Arranger, Incremental Equivalent Debt Arranger or Specified Refinancing Agent to exercise such rights, powers and privileges with respect to the New Loan Commitments, Incremental Equivalent Debt or Specified Refinancing Debt, as applicable, and to perform such duties with respect to such New Loan Commitments, Incremental Equivalent Debt or Specified Refinancing Debt, and every covenant and obligation contained in the Loan Documents and necessary to the exercise or performance thereof by such Incremental Arranger, Incremental Equivalent Debt Arranger or Specified Refinancing Agent shall run to and be enforceable by either the Administrative Agent or such Incremental Arranger, Incremental Equivalent Debt Arranger or Specified Refinancing 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 Incremental Arranger, Incremental Equivalent Debt Arranger or Specified Refinancing 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 Incremental Arranger, Incremental Equivalent Debt Arranger or Specified Refinancing Agent, as the context may require. Each Lender and L/C Issuer hereby irrevocably appoints any Incremental Arranger, Incremental Equivalent Debt Arranger or Specified Refinancing Agent to act on its behalf hereunder and under the other Loan Documents pursuant to Sections 2.14, 2.15 and 2.18, as applicable, and designates and authorizes such Incremental Arranger, Incremental Equivalent Debt Arranger or Specified Refinancing 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 such Incremental Arranger, Incremental Equivalent Debt Arranger or Specified Refinancing Agent by the terms of this Agreement or any other Loan Document, together with such actions and powers as are reasonably incidental thereto.

Section 9.15 Intercreditor Agreement. Without limiting Section 9.11, the Administrative Agent and the Collateral Agent are authorized by the Lenders and other Secured Parties to, (i) enter into any intercreditor agreement expressly contemplated by this Agreement or any other Loan Document (including, on the Spin-Off Date, the First Lien Pari Passu Intercreditor 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 other Secured Party (a) hereby agrees that it will be bound by and will take no actions contrary to the provisions of any intercreditor agreement (if entered into by the Collateral Agent) and (b) hereby authorizes and instructs the Administrative Agent and the Collateral Agent to enter into any intercreditor agreement expressly contemplated by this Agreement or any other Loan Document 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.

Section 9.16 Withholding Tax. To the extent required by any applicable Law, the Administrative Agent may withhold from any payment to any Lender an amount equivalent to any applicable withholding Tax. Without limiting or expanding the provisions of Section 3.01, each Lender shall indemnify the Administrative Agent against, and shall make payable in respect thereof within 30 days after demand therefor, any and all Taxes and any and all related losses, claims, liabilities and expenses (including fees, charges and disbursements of any counsel for the Administrative Agent) incurred by or asserted against the Administrative Agent by the U.S. Internal Revenue Service or any other Governmental Authority as a result of the failure of the Administrative Agent to properly withhold tax from amounts paid to or for the account of any Lender for any reason (including, without limitation, because the appropriate documentation was not delivered or not property executed, or because such Lender failed to notify the Administrative Agent of a change in circumstance that rendered the exemption from, or reduction of withholding tax ineffective). 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 this Agreement, any other Loan Document or otherwise against any amount due the Administrative Agent under this paragraph. The agreements in this paragraph shall survive the resignation and/or replacement of the Administrative Agent, any assignment of rights by, or the replacement of, a Lender and the repayment, satisfaction or discharge of all other obligations under any Loan Document. For the avoidance of doubt, for purposes of this Section 9.16, the term "Lender" shall include any L/C Issuer.

Section 9.17 Credit Bidding. Each Lender and L/C Issuer hereby irrevocably authorizes the Administrative Agent (and the Collateral Agent at the direction of the Administrative Agent), at the direction of the Required Lenders, to credit bid all or any portion of the Obligations (including by accepting some or all of the Collateral in satisfaction of some or all of the 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 other Debtor Relief Laws in any other jurisdictions to which a Loan Party 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 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 Obligations with respect to contingent or unliquidated claims 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 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 applicable, 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 Obligations which were credit bid, interests, whether as equity, partnership, 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 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 Obligations assigned to the acquisition vehicle exceeds the amount of Obligations credit bid by the acquisition vehicle or otherwise), such Obligations shall automatically be reassigned to the Secured Parties pro rata with their original interest in such Obligations and the equity interests and/or debt instruments issued by any acquisition vehicle on account of such 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 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 Agents and not, for the avoidance of doubt, to or for the benefit of any Borrower or any other Loan Party, that at least one of the following is and will be true:

(i) such Lender is not using "plan assets" (within the meaning of Section 3(42) of ERISA or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) of one or more Benefit Plans with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, 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 so as to exempt from the prohibitions of Section 406 of ERISA and Section 4975 of the Code with such Lender's entrance into, participation in, administration of and performance of the Loans, 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 Commitments, and this Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Commitments, and this Agreement satisfies the requirements of sub-sections (b) through (g) 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 Commitments and this Agreement, or

(iv) such other representation, warranty and covenant as may be agreed in writing between the Agents and such Lender.

(b) In addition, unless either (1) sub-clause (i) in the immediately preceding clause (a) is true with respect to a Lender or (2) a Lender has provided another representation, warranty and covenant in accordance with 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 Agents and not, for the avoidance of doubt, to or for the benefit of any Borrower or any other Loan Party, that the Agents are not a fiduciary with respect to the assets of such Lender involved in such Lender's entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement (including in connection with the reservation or exercise of any rights by the Agents under this Agreement, any Loan Document or any documents related hereto or thereto).

Section 9.19 Erroneous Payments.

(a) If the Administrative Agent (x) notifies a Lender, L/C Issuer or Secured Party, or any Person who has received funds on behalf of a Lender, L/C Issuer or Secured Party (any such Lender, L/C Issuer, Secured Party or other recipient (and each of their respective successors and assigns) (but for the avoidance of doubt, excluding the Borrower and its Subsidiaries), a "**Payment Recipient**") that the Administrative Agent has determined in its sole discretion (whether or not after receipt of any notice under the immediately succeeding clause (b)) that any funds (as set forth in such notice from the Administrative Agent) received by such Payment Recipient from the Administrative Agent (or any of its Affiliates) were erroneously or mistakenly transmitted to, or otherwise erroneously or mistakenly received by, such Payment Recipient (whether or not known to such Lender, L/C Issuer, Secured Party or other Payment Recipient on its behalf) (any such funds, whether transmitted or received as a payment, prepayment or repayment of principal, interest, fees, distribution or otherwise, individually and collectively, an "**Erroneous Payment**") and (y) demands in writing the return of such Erroneous Payment (or a portion thereof), such Erroneous Payment shall at all times remain the property of the Administrative Agent pending its return or repayment as contemplated below in this Section 9.19 and held in trust for the benefit of the Administrative Agent, and such Lender, L/C Issuer or Secured Party shall (or, with respect to any Payment Recipient who received such funds on its behalf, shall cause such Payment Recipient to) promptly, but in no event later than two Business Days thereafter (or such later date as the Administrative Agent may, in its sole discretion, specify in writing), 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 (except to the extent waived in writing by the Administrative Agent) in respect of each day from and including the date such Erroneous Payment (or portion thereof) was received by such Payment Recipient to the date such amount is repaid to the Administrative Agent in same day funds at the greater of (x) the NYFRB Rate (with respect to any Erroneous Payment denominated in Dollars) or the Central Bank Rate (with respect to any Erroneous Payment denominated in Euros) and (y) a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation from time to time in effect. A notice of the Administrative Agent to any Payment Recipient under this clause (a) shall be conclusive, absent manifest error.

(b) Without limiting immediately preceding clause (a), each Lender, L/C Issuer, Secured Party or any Person who has received funds on behalf of a Lender, L/C Issuer or Secured Party (and each of their respective successors and assigns), agrees that if it receives a payment, prepayment or repayment (whether received as a payment, prepayment or repayment of principal, interest, fees, distribution or otherwise) 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 this Agreement or in a notice of payment, prepayment or repayment sent by the Administrative Agent (or any of its Affiliates) with respect to such payment, prepayment or repayment, (y) that was not preceded or accompanied by a notice of payment, prepayment or repayment sent by the Administrative Agent (or any of its Affiliates), or (z) that such Lender, L/C Issuer or Secured Party, or other such recipient, otherwise becomes aware was transmitted, or received, in error or by mistake (in whole or in part), then in each such case:

(i) it acknowledges and agrees that (A) in the case of the immediately preceding clauses (x) or (y), an error and mistake shall be presumed to have been made (absent written confirmation from the Administrative Agent to the contrary) or (B) an error and mistake has been made (in the case of the immediately preceding clause (z)), in each case, with respect to such payment, prepayment or repayment; and

(ii) such Lender, L/C Issuer or Secured Party shall (and shall cause any other recipient that receives funds on its respective behalf to) promptly (and, in all events, within one Business Day of its knowledge of the occurrence of any of the circumstances described in the immediately preceding clauses (x), (y) and (z)) notify the Administrative Agent of its receipt of such payment, prepayment or repayment, the details thereof (in reasonable detail) and that it is so notifying the Administrative Agent pursuant to this Section 9.19(b).

For the avoidance of doubt, the failure to deliver a notice to the Administrative Agent pursuant to this Section 9.19(b) shall not have any effect on a Payment Recipient's obligations pursuant to Section 9.19(a) or on whether or not an Erroneous Payment has been made.

(c) Each Lender, L/C Issuer or Secured Party hereby authorizes the Administrative Agent to set off, net and apply any and all amounts at any time owing to such Lender, L/C Issuer or Secured Party under any Loan Document, or otherwise payable or distributable by the Administrative Agent to such Lender, L/C Issuer or Secured Party under any Loan Document with respect to any payment of principal, interest, fees or other amounts, against any amount that the Administrative Agent has demanded to be returned under the immediately preceding clause (a).

(d) (i) In the event that an Erroneous Payment (or portion thereof) is not recovered by the Administrative Agent for any reason, after demand therefor in accordance with the immediately preceding clause (a), from any Lender that has received such Erroneous Payment (or portion thereof) (and/or from any Payment Recipient who received such Erroneous Payment (or portion thereof) on its respective behalf) (such unrecovered amount, an "***Erroneous Payment Return Deficiency***"), upon the Administrative Agent's notice to such Lender at any time, then effective immediately (with the consideration therefor being acknowledged by the parties hereto), (A) such Lender shall be deemed to have assigned its Loans (but not its Commitments) of the relevant Class with respect to which such Erroneous Payment was made (the "***Erroneous Payment Impacted Class***") in an amount equal to the Erroneous Payment Return Deficiency (or such lesser amount as the Administrative Agent may specify) (such assignment of the Loans (but not Commitments) of the Erroneous Payment Impacted Class, the "***Erroneous Payment Deficiency Assignment***") (on a cashless basis and such amount calculated at par plus any accrued and unpaid interest (with the assignment fee to be waived by the Administrative Agent in such instance)), and is hereby (together with the Borrower) deemed to execute and deliver an Assignment and Assumption (or, to the extent applicable, an agreement incorporating an Assignment and Assumption by reference pursuant to a Platform as to which the Administrative Agent and such parties are participants) with respect to such Erroneous Payment Deficiency Assignment, and such Lender shall deliver any Notes evidencing such Loans to the Borrower or the Administrative Agent (but the failure of such Person to deliver any such

Notes shall not affect the effectiveness of the foregoing assignment), (B) the Administrative Agent as the assignee Lender shall be deemed to have acquired the Erroneous Payment Deficiency Assignment, (C) upon such deemed acquisition, the Administrative Agent as the assignee Lender shall become a Lender, as applicable, hereunder with respect to such Erroneous Payment Deficiency Assignment and the assigning Lender shall cease to be a Lender, as applicable, hereunder with respect to such Erroneous Payment Deficiency Assignment, excluding, for the avoidance of doubt, its obligations under the indemnification provisions of this Agreement and its applicable Commitments which shall survive as to such assigning Lender, (D) the Administrative Agent and the Borrower shall each be deemed to have waived any consents required under this Agreement to any such Erroneous Payment Deficiency Assignment, and (E) the Administrative Agent will reflect in the Register its ownership interest in the Loans subject to the Erroneous Payment Deficiency Assignment. For the avoidance of doubt, no Erroneous Payment Deficiency Assignment will reduce the Commitments of any Lender and such Commitments shall remain available in accordance with the terms of this Agreement.

(ii) Subject to Section 10.07 (but excluding, in all events, any assignment consent or approval requirements (whether from the Borrower or otherwise)), the Administrative Agent may, in its discretion, sell any Loans acquired pursuant to an Erroneous Payment Deficiency Assignment and upon receipt of the proceeds of such sale, the Erroneous Payment Return Deficiency owing by the applicable Lender shall be reduced by the net proceeds of the sale of such Loan (or portion thereof), and the Administrative Agent shall retain all other rights, remedies and claims against such Lender (and/or against any recipient that receives funds on its respective behalf). In addition, an Erroneous Payment Return Deficiency owing by the applicable Lender (x) shall be reduced by the proceeds of prepayments or repayments of principal and interest, or other distribution in respect of principal and interest, received by the Administrative Agent on or with respect to any such Loans acquired from such Lender pursuant to an Erroneous Payment Deficiency Assignment (to the extent that any such Loans are then owned by the Administrative Agent) and (y) may, in the sole discretion of the Administrative Agent, be reduced by any amount specified by the Administrative Agent in writing to the applicable Lender from time to time.

(e) The parties hereto agree that (x) irrespective of whether the Administrative Agent may be equitably subrogated, in the event that an Erroneous Payment (or portion thereof) is not recovered from any Payment Recipient that has received such Erroneous Payment (or portion thereof) for any reason, the Administrative Agent shall be subrogated to all the rights and interests of such Payment Recipient (and, in the case of any Payment Recipient who has received funds on behalf of a Lender, L/C Issuer or Secured Party, to the rights and interests of such Lender, L/C Issuer or Secured Party, as the case may be) under the Loan Documents with respect to such amount (the "***Erroneous Payment Subrogation Rights***") (*provided* that the Loan Parties' Obligations under the Loan Documents in respect of the Erroneous Payment Subrogation Rights shall not be duplicative of such Obligations in respect of Loans that have been assigned to the Administrative Agent under an Erroneous Payment Deficiency Assignment) and (y) an Erroneous Payment shall not pay, prepay, repay, discharge or otherwise satisfy any Obligations owed by the Borrower or any other Loan Party; *provided* that this Section 9.19 shall not be interpreted to increase (or accelerate the due date for), or have the effect of increasing (or accelerating the due date for), the Obligations of the Borrower relative to the amount (and/or timing for payment) of the Obligations that would have been payable had such Erroneous Payment not been made by the Administrative Agent; *provided*, *further*, that for the avoidance of doubt, the immediately preceding clauses (x) and (y) shall not apply to the extent any such Erroneous Payment is, and solely with respect to the amount of such Erroneous Payment that is, comprised of funds received by the Administrative Agent from the Borrower for the purpose of making any payment hereunder that became subject to such Erroneous Payment.

(f) To the extent permitted by applicable law, no Payment Recipient shall assert any right or claim to an Erroneous Payment, and hereby waives, and is deemed to waive, 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 Payment received, including, without limitation, any defense based on "discharge for value" or any similar doctrine.

(g) Each party's obligations, agreements and waivers under this Section 9.19 shall survive the resignation or replacement of the Administrative Agent, any transfer of rights or obligations by, or the replacement of, a Lender or L/C Issuer, the termination of the Commitments and/or the repayment, satisfaction or discharge of all Obligations (or any portion thereof) under any Loan Document.

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 any Borrower or any other Loan Party 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 Company or the applicable Loan Party, as applicable, and acknowledged by the Administrative Agent (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 acknowledged by the Administrative Agent), 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 Section 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) postpone any date scheduled for, or reduce the amount of, 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 2.19), 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 of Loans under the any Term Facilities 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 change the currency of, 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 (subject to clause (iv) of the second proviso to clause (h) below) 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; *provided*, *however*, that only the consent of the Required Lenders shall be necessary to amend the definition of "Default Rate", to waive any obligation of any Borrower to pay interest at the Default Rate or to waive or amend the MFN Provision;

(d) amend or modify any term or provision of any Loan Document to permit the issuance or incurrence of any Indebtedness for borrowed money (including any exchange of existing Indebtedness that results in another class of Indebtedness for borrowed money) with respect to which the Liens on all or substantially all of the Collateral securing the Obligations of any Tranche would be subordinated, except (A) Indebtedness that is expressly permitted by this Agreement as in effect as of the Closing Date to be secured by a Lien that is senior (including by way of subordination) to the Lien securing the Obligations, (B) any "debtor-in-possession" facility (or similar financing under applicable Law) or (C) any other Indebtedness so long as the opportunity to participate in such Indebtedness is offered ratably to all adversely affected Lenders, in each case, without the written consent of each Lender directly and adversely affected thereby;

(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 the New Term Facilities or New Revolving Facility 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 Revolving Credit Lender or (iii) the provisions of Section 2.13 or Section 8.04, in each case, in a manner that would alter the pro rata sharing of payments or setoffs required thereby without the written consent of each Lender;

(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 or as provided pursuant to Section 9.11, 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 the Financial Covenant, any defined terms used therein (including, for the avoidance of doubt the parenthetical phrases in clauses (1)(g), (u) and (v) of the definition of "Consolidated EBITDA" referring to the determination of compliance with Section 7.08)), (ii) waive or consent to any Default or Event of Default resulting from a breach of the Financial Covenant, (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 or (iv) waive any condition precedent set forth in Section 4.02 with respect to Credit Extensions involving the Revolving Credit Facility, 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) amend, waive or grant any consent that would affect the rights or duties of an 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 without the written consent of such L/C Issuer in addition to the Borrowers and the Lenders required above;

(j) amend, waive or grant any consent that would affect the rights or duties of, or any fees or other amounts payable to, the Administrative Agent or the Collateral Agent, as applicable, under this Agreement or any other Loan Document without the written consent of the Administrative Agent, the Collateral Agent in their respective capacities as such, in addition to the Borrowers and the Lenders required above; or

(k) 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.

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, (1) 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) 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 if such Lenders were the only Lenders hereunder at the time, (2) to the extent any Lenders under any New Revolving Facility have elected to not receive the benefit of the Financial Covenant, the New Revolving Commitments and New Revolving Loans of such Lenders shall be excluded in calculating the votes of any "Required Revolving Lenders" for purposes of Section 2.03(g), Section 10.01(h), Section 8.01(b) or Section 8.02 and (3) any fee letter may be amended, or the rights or privileges thereunder waived, in a writing executed only by the parties thereto.

This Section 10.01 shall be subject to any contrary provision of Section 2.14, Section 2.15, Section 2.17, Section 2.18 or Section 2.19. In addition, notwithstanding anything else to the contrary contained in this Section 10.01 or otherwise herein, (a) amendments and modifications to this Agreement and to any other Loan Document in connection with the transactions provided for by Section 2.14, Section 2.15, Section 2.17, Section 2.18 or Section 2.19 that benefit existing Lenders may be effected without such Lenders' consent, (b) if the Administrative Agent and the Company 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 Company shall be permitted to amend or modify such provision, (c) the Administrative Agent and the Company shall be permitted to amend or modify any provision of any Collateral Document, the Guaranty or any other Loan Document, or enter into any new agreement or instrument, to be consistent with this Agreement and the other Loan Documents or as required by 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 if the same is not objected to in writing by the Required Lenders to the Administrative Agent within five Business Days following receipt of notice thereof, (d) the Administrative Agent and the Company shall be permitted to amend or modify any Loan Document to effect the provisions of Article XI and (e) the Administrative Agent and the Company shall be permitted to amend or modify any Loan Document to comply with local law or advice or local counsel.

Notwithstanding anything to the contrary herein, in connection with any determination as to whether the Required Lenders have (A) consented (or not consented) to any amendment or waiver of any provision of this Agreement or any other Loan Document or any departure by any Loan Party therefrom, (B) otherwise acted on any matter related to 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 any Loan Document, any Lender (other than (x) any Lender that is a Regulated Bank and (y) any Revolving Credit Lender or its Affiliates as of the Closing Date) 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 the Loans and/or Commitments (each, a "**Net Short Lender**") shall not, without the consent of the Company (in its sole discretion), have any right to vote any of its Loans and Commitments 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.

For purposes of determining whether a Lender has a "net short position" on any date of determination:

(i) derivative contracts with respect to the Loans and Commitments and such contracts that are the functional equivalent thereof shall be counted at the notional amount thereof in Dollars,

(ii) the 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 any of the Borrowers or other Loan Parties or any instrument issued or guaranteed by any of the Borrowers or other Loan Parties shall not be deemed to create a short position with respect to the Loans and/or Commitments, so long as (x) such index is not created, designed, administered or requested by such Lender or its Affiliates and (y) the Borrowers and the other Loan Parties and any instrument issued or guaranteed by any of the Borrowers or other Loan Parties, collectively, shall represent less than five percent (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 Derivative Definitions (collectively, the "**ISDA CDS Definitions**") shall be deemed to create a short position with respect to the Loans and/or Commitments if such Lender is a protection buyer or the equivalent thereof for such derivative transaction and (x) the Loans or the Commitments are 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 Markit, if "Standard Reference Obligation" is specified as applicable in the relevant documentation or in any other manner), (y) the Loans or the Commitments would be a "Deliverable Obligation" under the terms of such derivative transaction or (z) any of the Borrowers or other Loan Parties (or its successor) 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 the Loans and/or Commitments if such transactions are functionally equivalent to a transaction that offers the Lender protection in respect of the Loans or the Commitments, or as to the credit quality of any of the Borrowers or other Loan Parties other than, in each case, as part of an index so long as (x) such index is not created, designed, administered or requested by such Lender or its Affiliates and (y) the Borrowers and other Loan Parties and any instrument issued or guaranteed by any of the Borrowers or other Loan Parties, collectively, shall represent less than five percent (5%) of the components of such index.

In connection with any such determination, each Lender shall promptly notify the Administrative Agent in writing that it is a Net Short Lender, or shall otherwise be deemed to have represented and warranted to the Borrowers and the Administrative Agent that it is not a Net Short Lender (it being understood and agreed that the Borrowers and the Administrative Agent shall be entitled to rely on each such representation and deemed representation without independent verification thereof).

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 telecopier 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 Company, any other Loan Party, the Administrative Agent, the Collateral Agent or an L/C Issuer, to the address, telecopier number, electronic mail address or telephone number specified for such Person on Schedule 10.02 or to such other address, telecopier number, electronic mail address or telephone number as shall be designated by such party in a notice to the other parties hereto, as provided in Section 10.02(d);

(ii) if to any other Lender, to the address, telecopier number, electronic mail address or telephone number specified in its Administrative Questionnaire; and

(iii) if to any Hedge Bank or Cash Management Bank, at its address specified in the applicable Secured Hedge Agreement or Secured Cash Management Agreement to which it is a party, or as otherwise agreed between the Company or any Restricted Subsidiary and such Hedge Bank or Cash Management Bank.

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 telecopier 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 Company's consent), (i) 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 acknowledgement); *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 (ii) 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 (i) 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 the 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, or material breach of the Loan Documents by, 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 Company, the Borrowers, the Guarantors, the Administrative Agent, the Collateral Agent and each L/C Issuer may change its address, telecopier, telephone number or electronic mail address for notices and other communications hereunder by notice to the other parties hereto. Each other Lender may change its address, telecopier, telephone number or electronic mail address for notices and other communications hereunder by notice to the Borrowers, the Administrative Agent and 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, telecopier 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 Company, 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 Borrower 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, or material breach of the Loan Documents by, the

Administrative Agent, Collateral Agent, L/C Issuer or Lender in a final non-appealable judgment of a court of competent jurisdiction. Each Borrower 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 such 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, the Administrative Agent or the Collateral 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 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.

Notwithstanding anything to the contrary herein, each Lender agrees that it shall not, and hereby expressly and irrevocably waives any right to, take or institute any actions or proceedings, judicial or otherwise, for any right or remedy or assert any other Cause of Action against any Loan Party (including the exercise of any right of setoff, rights on account of any banker's lien or similar claim or other rights of self-help), or institute any actions or proceedings or any other Cause of Action, or otherwise commence any remedial procedures, against the Company, any Borrower and/or any of their respective Subsidiaries or parent companies with respect to any Collateral or any other property of any such Person, without the prior written consent of the Required Lenders.

Section 10.04 Expenses. Each Borrower agrees (a) to pay or reimburse the Administrative Agent and the other Agents for all reasonable and documented 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 and documented out-of-pocket 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 and documented out-of-pocket fees, disbursements and other charges of counsel (limited to the reasonable, documented out-of-pocket fees, disbursements and other charges of one primary counsel to the Agents taken as a whole and, if reasonably necessary, one local counsel to the Agents taken as a whole in each relevant material jurisdiction (which may include a single special counsel acting in multiple jurisdictions, in each case, in relevant jurisdictions material to the interests of the Lenders)), 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 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 reasonable and documented out-of-pocket costs and expenses incurred during any legal proceeding, including any proceeding under any Debtor Relief Law or in connection with any workout or restructuring), including the reasonable and documented out-of-pocket fees, disbursements and other charges of counsel (limited to the reasonable fees, documented out-of-pocket disbursements and other charges of one counsel to the Administrative Agent, the other Agents and the Lenders taken as a whole, and, if reasonably necessary, of one local counsel to such Persons take as a whole in each relevant jurisdiction (which may include a single special counsel acting in multiple jurisdictions, in each case, in relevant jurisdictions material to the interests of the Lenders) and, in the event of any actual or perceived conflict of interest, one additional counsel in each relevant jurisdiction for each Lender or group of similarly affected Lenders or Agents taken as a whole subject to such conflict with the consent of the Borrowers). 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 30 days (or such longer period as the Administrative Agent may agree to in its reasonable discretion) 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 three 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 Borrower 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 Borrower by the Administrative Agent after any applicable grace periods have expired, in its sole discretion and such Borrower shall immediately reimburse the Administrative Agent, as applicable. This Section 10.04 shall not apply with respect to Taxes other than any Taxes arising from any non-Tax cost or expense.

Section 10.05 Indemnification by the Borrowers. Each Borrower shall indemnify and hold harmless 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 (but (x) limited, in the case of legal fees and expenses, to the reasonable and documented out-of-pocket fees, disbursements and other charges of (i) one 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

informs the Borrowers of such conflict 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 reasonably necessary, one local counsel in each jurisdiction material to the interests of the Indemnitees (which may include a single special counsel acting in multiple jurisdictions) and (y) excluding the fees and expenses of any other third-party advisors retained without the Borrowers' prior written consent) 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 (x) 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 following, 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): (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 or (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); *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 resulted from (A) 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, as applicable, as determined by a court of competent jurisdiction in a final and non-appealable decision, (B) 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 applicable, as determined by a court of competent jurisdiction in a final and non-appealable decision or (C) any dispute that is among Indemnitees (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 Company or its Subsidiaries or any of their respective Affiliates; or (y) to the extent related to the foregoing in clauses (a) and (b) above, any actual or alleged presence or Release of Hazardous Materials on or from any property currently or formerly owned or operated by the Company or its Subsidiaries and any other Environmental Liability related in any way to the Company or any of its Subsidiaries (clauses (x) and (y), collectively, the "**Indemnified Liabilities**"), in all cases, *provided* that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence, bad faith or willful misconduct of such Indemnitee. 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 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 or against any Loan Party, its directors, shareholders or creditors, 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 30 days (or such longer period as any Agent may agree to in its reasonable discretion) after demand therefor (and after receipt by the Borrowers of a reasonably detailed invoice with respect thereto). The agreements in this Section 10.05 shall survive the resignation of the Administrative 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 Indemnified Liabilities arising from any non-Tax claim. Notwithstanding the foregoing, each Indemnitee shall be obligated to refund or return any and all amounts paid by any Loan Party under this paragraph to such Indemnitee for any losses, claims, damages, liabilities and expenses to the extent such Indemnitee is not entitled to payment of such amounts in accordance with the terms hereof as determined in a final, non-appealable judgment of a court of competent jurisdiction.

Section 10.06 Payments Set Aside. To the extent that any payment by or on behalf of the Borrower 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 Federal Funds Effective 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 (other than in connection with a transaction 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 Disqualified Institution or 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 to a Lender, an Affiliate of a Lender or an Approved Fund or 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, no minimum amount shall need be assigned, and (B) in any case not described in clause (b)(i)(A) of this Section 10.07, 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 the Trade Date, shall not be less than $5,000,000 (or equivalent) or integral multiples of $1,000,000 (or equivalent) (or such lesser amount or multiple as is acceptable to the Administrative Agent and the applicable Borrower), in the case of any assignment in respect of the Revolving Credit Facility, or $500,000 or integral multiples of $100,000 (or equivalent) (or such lesser amount or multiple as is acceptable to the Administrative Agent and the applicable 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 applicable Borrower otherwise consents (in each case, which consent shall not 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; *provided*, *further*, that the request for any consent of the applicable Borrower shall be delivered to both such Borrower;

(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 tranche of any Facilities) on a non-pro rata basis;

(iii)

(A) the consent of the applicable Borrower (such consent not to be unreasonably withheld, conditioned or delayed; *provided* that such Borrower shall have absolute consent rights with regards to any proposed assignment to a Disqualified Institution) shall be required for any assignment, unless (1) an Event of Default under Section 8.01(a) (only with respect to principal payments), (f) or (g) has occurred and is continuing at the time of such assignment (in each case, other than in the case of a proposed assignment to any Disqualified Institution); (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 Disqualified Institution); or (3) such assignment is in respect of the Revolving Credit Facility and made from a Revolving Credit Lender to an Affiliate of such Revolving Credit Lender (*provided* that such affiliate must be a controlled bank affiliate and not a loan syndicate affiliate (except that, in the case of JPMorgan Chase Bank, N.A. or its Affiliates, such affiliate may include Chase Lincoln First Commercial Corporation and its Affiliates for so long as such entity is a Wholly Owned Subsidiary of JPMorgan Chase Bank, N.A. and such assignment is not made in connection with or in contemplation of such entity ceasing to be a Wholly Owned Subsidiary of JPMorgan Chase Bank, N.A.)) or another Revolving Credit Lender that was a Revolving Credit Lender as of the Closing Date (other than any Disqualified Institution); *provided* that (1) other than with respect to assignments of the

Revolving Credit Facility, such Borrower shall be deemed to have consented to any assignment unless such Borrower objects thereto by written notice to the Administrative Agent within ten Business Days after having received notice thereof and (2) during the 90 day period following the Closing Date, such Borrower shall be deemed to have consented to an assignment to any Lender (other than any Disqualified Institution) if such Lender was previously identified in writing and approved in writing in the initial allocations of the Loans and Commitments provided by the Arrangers to such Borrower,

(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, an Approved Fund, the Company or any Subsidiary of the Company, 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 (or group of affiliated or related assignments) (except (w) no processing and recordation fee shall be payable in the case of assignments in connection with the initial syndication of the Facilities, (x) in the case of contemporaneous assignments by any Lender to one or more Approved Funds, only a single processing and recording fee shall be payable for such assignments, (y) no processing and recordation fee shall be payable for assignments among Approved Funds or among any Lender and any of its Approved Funds and (z) 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 an Administrative Questionnaire;

(v) no such assignment shall be made (A) to any Defaulting Lender or any of its Subsidiaries, or any Person who, upon becoming a Lender hereunder, would constitute a Defaulting Lender or a Subsidiary of a Defaulting Lender, (B) to any Natural Person, (C) to any Disqualified Institution or (D) to the Company, any Borrower or any of their Subsidiaries except as permitted under clause (j) below and any such assignment in violation of this clause (v) shall be, at the applicable Borrower's option, declared (and shall thereafter automatically be) null and void; *provided*, that each Lender shall make an inquiry to the Administrative Agent as to whether a specific potential assignee or prospective participant is a Disqualified Institution and upon such inquiry by any Lender to the Administrative Agent, the Administrative Agent shall be permitted to disclose to such inquiring Lender whether such specific potential assignee or prospective participant is on the list of Disqualified Institutions; *provided*, *further*, that such Lender agrees to keep such identity confidential; *provided*, *further*, that 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 Disqualified Institutions and 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 a Net Short Lender or (y) have any liability with respect to or arising out of any assignment or participation to or disclosure of confidential information to, a Disqualified Institution; *provided*, *further*, that the Administrative Agent shall not disclose (verbally or in writing) the list of entities that are Disqualified Institutions to any person, but may, upon the written request or inquiry by any Lender, disclose whether a particular potential assignee or participant is a Disqualified Institution (*provided*, that, such Lender agrees to keep such information confidential and each Lender party to this Agreement (on or after the Closing Date) expressly acknowledges that the Disqualified Institutions list shall be treated as "Information" subject to the restrictions of Section 10.08 except to the extent disclosure of a particular Disqualified Institution's status is required in connection with a potential assignment to such particular Disqualified Institution);

(vi) [reserved];

(vii) the assigning Lender shall deliver any Notes or, in lieu thereof, a lost note affidavit and indemnity reasonably acceptable to the applicable Borrower evidencing such Loans to such Borrower 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 applicable Borrower 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 the Administrative 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.

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 (or, in lieu thereof, a lost note affidavit and indemnity reasonably acceptable to the applicable Borrower), the applicable Borrower (at its expense) shall execute and deliver a Note to the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement (other than any purported assignment or transfer to a Disqualified Institution) 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, 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 (the "**Register**"). The entries in the Register shall be conclusive, absent manifest error, and the Borrowers, the Agents and the Lenders shall treat each Person whose name is recorded in the 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 Register shall be available for inspection by any Borrower, 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 United States Treasury Regulations Section 5f.103-1(c), and proposed United States Treasury Regulations Section 1.163-5(b) (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 applicable Borrower, the Administrative Agent or the L/C Issuers, sell participations to any Person (other than a Natural Person, a Person that the Administrative Agent has identified in a notice to the Lenders as a Defaulting Lender or a Disqualified Institution) (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 applicable Borrower; *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) or (c) of such proviso, that directly and adversely affects such Participant). Subject to Section 10.07(e), each 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(h) shall be delivered solely to the participating Lender) and Section 3.08) to the same extent as if it were a Lender 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; *provided* such Participant agrees to be subject to Section 2.13 as though it were a Lender.

(e) A Participant (i) shall be subject to the provisions of Section 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 greater entitlement results from a Change in Law after the Participant acquires such participation.

(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 or a Natural Person) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a FRB 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 (an "**SPC**") identified as such in writing from time to time by the Granting Lender to the Administrative Agent and the applicable Borrower 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). 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 (it being understood that the documentation required under Section 3.01(h) shall be delivered solely to the Granting Lender) 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 any Borrower under this Agreement (including under Section 3.01, 3.04 or 3.05), except to the extent such greater entitlement results from a Change in Law after the applicable grant. 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 applicable Borrower 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) Notwithstanding anything to the contrary herein, any Lender that is a Fund may create a security interest in all or any portion of the Loans owing to it and the Note, if any, held by it to the trustee for holders of obligations owed, or securities issued, by such Fund as security for such obligations or securities; *provided* that unless and until such trustee actually becomes a Lender in compliance with the other provisions of this Section 10.07, (i) no such pledge shall release the pledging Lender from any of its obligations under the Loan Documents, and (ii) such trustee shall not be entitled to exercise any of the rights of a Lender under the Loan Documents even though such trustee may have acquired ownership rights with respect to the pledged interest through foreclosure or otherwise.

(i) [Reserved].

(j) Notwithstanding anything to the contrary herein, including Sections 2.13 and 8.04, so long as no Default or Event of Default exists, any Lender may assign all or any portion of its Term Loans, Specified Refinancing Term Loans and New Term Loans hereunder to the Company, any Borrower, or any of their Subsidiaries, whether pursuant to open market purchase, dutch auction, exchange, or otherwise, and, for the avoidance of doubt any such assignment may be made on a non-pro rata basis, and *provided* that:

(i) any such Term Loans shall be automatically and permanently cancelled immediately upon acquisition thereof by the Company or any of its Subsidiaries; and

(ii) the Company 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 Section 10.07(j), each Lender acknowledges and agrees that, in connection therewith:

(1) the Company and/or any of its Subsidiaries may have, and later may come into possession of, information regarding either the Company or 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 Company, 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 Company, 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 Company, 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 30 days' notice to the Borrowers and the Lenders, resign as L/C Issuer; *provided* that on or prior to the expiration of such 30-day period with respect to such resignation, the relevant L/C Issuer 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, the Borrowers shall be entitled to appoint from among the Lenders agreeing to accept such appointment a successor L/C Issuer hereunder; *provided*, *however*, that no failure by the Borrowers 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 such resignation and all L/C Obligations with respect thereto (including the right to require the Lenders to make ABR 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, 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 applicable Borrower, 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 in connection with a Tax audit or other proceeding to establish that such commitment, loan, letter of credit or other obligation is in "registered form" under Sections 163(f), 871(h)(2), and 881(c)(2) of the Code, United States Treasury Regulations Section 5f.103-1(c), and proposed United States Treasury Regulations Section 1.163-5(b) (or any other relevant or successor provisions of the Code or of such Treasury Regulations). The entries in the Participant Register shall be conclusive absent manifest error, and such Borrower 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. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no obligation to maintain the Participant Register.

(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 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.

(o) Notwithstanding anything to the contrary herein, if any Loans are assigned or any participations are purchased or otherwise acquired, without the applicable Borrower's consent (including, without limitation, in violation of Section 10.07(b) or (d)), to any Disqualified Institution, then: (i) such Borrower may, at its sole option, expense and effort, upon notice to the applicable Disqualified Institution and the Administrative Agent (*provided* that the Administrative Agent shall provide appropriate cooperation to effect this Section 10.07(o)), (I) (x) terminate any commitment of such Disqualified Institution and repay any applicable outstanding Loans (in the case of Loans, at a price equal to the least of (A) par and (B) the amount that the applicable Disqualified Institution paid to acquire such Loans or participation), without premium, penalty, prepayment fee, breakage or accrued interest, and/or (y) require such Disqualified Institution to assign its rights and obligations to one or more Eligible Assignees at the price indicated in the immediately preceding clause (x), without premium, penalty, prepayment fee, accrued interest or breakage (which assignment shall not be subject to the processing and recordation fee described in Section 10.07(b)(iv)) or (II) (x) force the termination of any participation with respect to any Participant which is a Disqualified Institution or terminate any commitment of a Lender which has sold a participation to a Participant which is a Disqualified Institution and repay any applicable outstanding Loans of such Lender (in the case of Loans, at a price equal to the least of (A) par, (B) the amount that the applicable Disqualified Institution paid to acquire such participation in such Loans and (C) the average trading price for such Loans over the immediately prior five trading days), without premium, penalty, prepayment fee, breakage or accrued interest, and/or (y) require such Participant which is a Disqualified Institution to assign

its rights and obligations to one or more Eligible Assignees at the price indicated in the immediately preceding clause (x), without premium, penalty, prepayment fee, accrued interest or breakage (which assignment shall not be subject to the processing and recordation fee described in Section 10.07(b)(iv)), (ii) no such Disqualified Institution shall (x) receive any information or reporting provided by any Borrower, the Administrative Agent or any other Lender, (y) attend or participate in meetings attended by the Lenders and the Administrative Agent or (z) access any electronic site established for the Lenders or confidential communications from counsel to or financial advisors of the Administrative Agent or the Lenders, (iii) for purposes of voting, any Loans, Commitments or participations held by such Disqualified Institution shall be deemed not to be outstanding and such Disqualified Institution shall have no voting or consent rights with respect to "Required Lender" or class votes or consents, in each case notwithstanding Section 10.01, (iv) for purposes of any matter requiring the vote or consent of each Lender affected by any amendment or waiver, such Disqualified Institution shall be deemed to have voted or consented to approve such amendment or waiver if a majority of the affected class so approves and (v) such Disqualified Institution shall not be entitled to any expense reimbursement or indemnification rights ordinarily afforded to Lenders or Participants hereunder or in any Loan Document and such Disqualified Institution shall be treated in all other respects as a Defaulting Lender.

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 Affiliates' respective partners, limited partners, managed accounts, investors, lenders, directors, officers, employees, trustees, representatives and agents, including accountants, legal counsel and other advisors and service providers on a need-to-know basis (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, Lender or its respective Affiliates or in connection with any pledge or assignment permitted under Section 10.07(f); (c) in any legal, judicial, administrative proceeding or other compulsory process or otherwise as required by applicable Laws or regulations 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 or self-regulatory authorities exercising examination or regulatory authority), to the extent not prohibited by applicable Law, to (i) promptly notify the Company in writing prior to such disclosure, (ii) cooperate with the Company to obtain a protective order or similar confidential treatment, and (iii) only disclose that portion of the Information as counsel for the Agent or the applicable Lender advises the Agent or the applicable Lender it must disclose pursuant to such requirement); (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 (or as may otherwise be reasonably acceptable to the Company), 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 Company; (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 when required by it (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 Agent or Lender); (k) to any contractual counterparty (or prospective contractual counterparty) in any swap, hedge, or similar agreement or to any such contractual counterparty's (or prospective contractual counterparty's) professional advisor (other than a Disqualified

Institution); (l) in connection with establishing a "due diligence" defense in connection with any legal, judicial, administrative proceeding or other process; or (m) to the extent such Information becomes available to such Person on a non-confidential basis from a source other than a Borrower or on a Borrower's behalf and not in violation of any confidentiality agreement or obligation owed to any Borrower. 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.

Each Agent, each Lender and each L/C Issuer acknowledges that (i) the Information may include material non-public information concerning the Company or any of its Subsidiaries, (ii) it has developed compliance procedures regarding the use of material non-public information and (iii) it will handle such material non-public information in accordance with applicable Law, including United States federal and state securities Laws.

Section 10.09 Setoff. In addition to any rights and remedies of the Secured Parties 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 obtaining the prior written consent of the Administrative Agent, without prior notice to any Borrower or any other Loan Party, any such notice being waived by the Company (on its own behalf and on behalf of each Loan Party) 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 is acting as fiduciary for another Person who is not a Loan Party 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 against any and all Obligations owing to such Secured Party hereunder or under any other Loan Document (or Security Agreement), 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 (or other Security Agreement) 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 Company and the Administrative Agent 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. 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 telecopier 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 telecopier 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 telecopier or other electronic transmission.

Section 10.12 Integration; Effectiveness. This Agreement and the other Loan Documents 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. 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. Except as provided in 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 as long as any Loan or any other Obligation (other than any Remaining Obligations) hereunder shall remain unpaid or unsatisfied or any Letter of Credit shall remain outstanding (other than any Remaining Obligations).

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 (OTHER THAN WITH RESPECT TO ANY COLLATERAL 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 WITHOUT GIVING EFFECT TO THE CONFLICTS OF LAWS PRINCIPLES THEREOF, BUT INCLUDING SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW.

(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 THE ADMINISTRATIVE AGENT, THE COLLATERAL 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 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 THE MANNER PROVIDED FOR NOTICES IN SECTION 10.02. NOTHING IN THIS AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

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 Binding Effect. When this Agreement shall have become effective in accordance with Section 10.12, it shall thereafter be binding upon and inure to the benefit of the Company, each Borrower, each Agent and each Lender and their respective successors and permitted assigns, except that no Borrower shall have the right to assign its rights hereunder or any interest herein without the prior written consent of the Lenders, except as permitted by Section 7.03.

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 and the Company acknowledge and agree, and each of them acknowledges and agrees that it has informed its other Affiliates, that: (i) (A) no fiduciary, advisory or agency relationship between any of the Company and its Subsidiaries and any Agent or any Arranger or Lender (or their respective Affiliates) 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 Arranger or any Lender (or their respective Affiliates) has advised or is advising the Company and its Subsidiaries on other matters, (B) the arranging and other services regarding this Agreement provided by the Agents and the Arrangers are arm's-length commercial transactions between the Company and its Subsidiaries, on the one hand, and the Agents and the Arrangers on the other hand, (C) each Borrower and the Company has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (D) each Borrower and the Company is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (ii) (A) each Agent, Arranger 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 Company or any Borrower or any of their respective Affiliates, or any other Person and (B) none of the Agents or Arrangers or Lenders has any obligation to the Company 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 (iii) the Agents, the Arrangers and Lenders and/or their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Company, the Borrowers and their respective Affiliates, and none of the Agents, the Arrangers or the Lenders has any obligation to disclose any of such interests and transactions to the Company, the Borrowers or their respective Affiliates. To the fullest extent permitted by law, each Borrower and the Company hereby waives and releases any claims that it may have against the Agents, the Arrangers 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. The Borrowers and the Company acknowledge that each Agent and each Arranger (and their respective Affiliates) are full service securities firms 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 Company and its Affiliates, as well as of other entities and persons and their Affiliates which may (i) be involved in transactions arising from or relating to the transactions contemplated hereby and by the other Loan Documents, (ii) be customers or competitors of the Company and its Affiliates or (iii) have other relationships with the Company 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 Company 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 Electronic Execution of Assignments and Certain Other Documents. The words "execution," "execute," "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 applicable, 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.

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 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, which information includes the name and address of each Loan Party and other information that will allow such Lender or the Administrative Agent, as applicable, to identify each Loan Party in accordance with the PATRIOT Act. Each Loan Party shall, promptly following a request by the Administrative Agent, the Collateral 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 and Beneficial Ownership Regulation.

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 the 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 a Borrower in the Agreement Currency, such Borrower agrees, 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 such Borrower (or to any other Person who may be entitled thereto under applicable Law).

Section 10.24 Acknowledgement and Consent to Bail-In of Affected Financial Institutions. Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Affected Financial Institution 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 agrees and consents to, 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 which may be payable to it by any Lender that is an Affected Financial Institution; and

(b) the effects of any Bail-In Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(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

(iii) 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 10.25 Acknowledgement 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):

(a) 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.

(b) As used in this Section 10.25, the following terms have the following meanings:

"Covered Entity" means any of the following:

(i) a "covered entity" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b);

(ii) a "covered bank" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or

(iii) a "covered FSI" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

"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.

"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).

ARTICLE XI

CO-BORROWER ARRANGEMENTS

Section 11.01 Addition of Co-Borrowers. From time to time on or after the Spin-Off Date, the Company may designate one or more Wholly Owned Restricted Subsidiaries as a "Co-Borrower" with respect to any designated Tranche under any Revolving Credit Facility; *provided* that such Restricted Subsidiary designated after the Spin-Off Date shall not become a Co-Borrower hereunder unless and until each of the following has occurred or is satisfied, as applicable:

(a) the Administrative Agent, the Collateral Agent and the Revolving Credit Lenders, as applicable, shall have received a Beneficial Ownership Certification and all other documentation and other information about such Co-Borrower as has been reasonably requested in writing by the Administrative Agent, the Collateral Agent or such Lenders that they reasonably determine is required by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including without limitation the PATRIOT Act and Beneficial Ownership Regulation;

(b) such Co-Borrower shall be organized in an Applicable Jurisdiction;

(c) no Default or Event of Default shall exist, or would result from such proposed Restricted Subsidiary being designated as a Co-Borrower;

(d) the representations and warranties of each Borrower and each other Loan Party 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 designation of any Co-Borrower, 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;

(e) such Co-Borrower shall have delivered to the Administrative Agent a duly authorized, executed and delivered counterpart signature page to a Co-Borrower Joinder Agreement and, if applicable and to the extent not then a Subsidiary Guarantor, intercreditor arrangements, intercompany subordination agreements and a guaranty or guaranty supplement pursuant to the Guaranty;

(f) to the extent not then a Subsidiary Guarantor, the Co-Borrower shall have delivered to the Administrative Agent and Collateral Agent executed counterparts of a joinder or supplement to the applicable Collateral Documents pursuant to Section 6.12 or other security agreements executed and delivered pursuant to Section 6.12, Section 6.14 or Section 6.16 as if such Co-Borrower was a newly formed Subsidiary, without giving effect to any grace period, together with other deliverables reasonably required pursuant to such Section as applied to such Co-Borrower (it being understood and agreed that the Administrative Agent and the Company may waive or modify any such requirements to the extent they deem in their mutual discretion such changes are necessary or appropriate under the circumstances taking into account the designated Co-Borrower's jurisdiction of organization and applicable Laws);

(g) the Administrative Agent shall have received an opinion of local counsel and/or New York counsel, as applicable and depending on the circumstances and relevant market standard, in each case, addressed to the Administrative Agent, the Collateral Agent, the Lenders and if applicable, each L/C Issuer (in each case, where, and as, consistent with generally accepted market practice);

(h) the Administrative Agent shall have received a copy of a resolution of the Board of Directors, if required by applicable Law, of such Co-Borrower: (i) approving the terms of, and the transactions contemplated by, the Loan Documents to which it is a party and resolving that it execute, deliver and perform the Loan Documents to which it is a party; (ii) authorizing a specified person or persons to execute the Loan Documents and any related documents to which it is a party on its behalf; and (iii) authorizing a specified person or persons, on its behalf, to sign and/or dispatch all documents and notices (including, if relevant, any Committed Loan Notice or other relevant notice) to be signed and/or dispatched by it under or in connection with the Loan Documents to which it is a party; and

(i) the Administrative Agent shall have received a certificate of a Responsible Officer of the Co-Borrower certifying that (i) its Organization Documents and each copy document relating to it specified in clause (h) above, is correct, complete and in full force and effect and has not been amended or superseded as at a date no earlier than the date of such Co-Borrower Joinder Agreement and (ii) each of the conditions set forth in clauses (c) and (d) above have been satisfied.

Section 11.02 Status of Co-Borrowers. Once a Co-Borrower has become a Co-Borrower in accordance with Section 11.01, it shall be a "Borrower" under the Revolving Credit Facility (with respect to the applicable Tranche) and will have the right to directly request Revolving Credit Loans in accordance with Article II hereof until the Maturity Date for the Revolving Credit Facility, or the date on which such

Co-Borrower terminates its obligations under this Agreement in accordance with Section 11.03 or the date on which such Co-Borrower is released from its obligations under the Loan Documents in accordance with this Agreement, including Section 9.11 hereof. Each of the Co-Borrowers and the applicable Borrower shall hereby accept joint and several liability hereunder with respect to the Obligations under the applicable Tranche of the applicable Facility under the Loan Documents.

Section 11.03 Resignation of Co-Borrowers. A Co-Borrower may elect to terminate its eligibility to request Borrowings and to cease to be a Co-Borrower hereunder and shall therefore cease to be a "Borrower" under the Revolving Credit Facility (with respect to the applicable Tranche, as applicable) upon the occurrence of, and such resignation shall effective upon, all of the following:

(a) such resigning Co-Borrower shall have paid in full in cash all of its direct Obligations under the Revolving Credit Facility (with respect to the applicable Tranche) or such other Co-Borrowers have assumed such amounts; and

(b) such resigning Co-Borrower shall have delivered to the Administrative Agent and the Collateral Agent a notice of resignation substantially in the form of Exhibit L or otherwise in form and substance reasonably satisfactory to the Administrative Agent; provided, however, that such resignation shall not, to the extent applicable, have any impact on such Person's obligations as a Guarantor and such obligations, to the extent applicable, shall continue to be effective in accordance with the Guaranty and the other provisions and undertakings hereunder related thereto. For the avoidance of doubt, the Co-Borrower shall not be required to adhere to the above in connection with a release pursuant to Section 9.11.

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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.

EMBECTA CORP., as the Company

By: */s/ Jacob Elguicze*
Name: Jacob Elguicze
Title: Chief Financial Officer

MORGAN STANLEY SENIOR FUNDING, INC., as the Administrative Agent, the Collateral Agent, a Lender and an L/C Issuer

By: */s/ Mark Scioscia*
Name: Mark Scioscia
Title: Authorized Signatory

MORGAN STANLEY BANK, N.A., as a Lender

By: */s/ Mark Scioscia*
Name: Mark Scioscia
Title: Authorized Signatory

[Signature Page to Credit Agreement]

BNP PARIBAS,
as a Revolving Credit Lender and an L/C Issuer

By: */s/ John Bosco*
Name: John Bosco
Title: Managing Director

By: */s/ Michael Pearce*
Name: Michael Pearce
Title: Managing Director

[Signature Page to Credit Agreement]

Citibank, N.A.,
as a Revolving Credit Lender and an L/C Issuer

By: */s/ Michael Chen*
Name: Michael Chen
Title: Authorized Signer

[Signature Page to Credit Agreement]

CITIZENS BANK, N.A.,
as a Revolving Credit Lender and an L/C Issuer

By: */s/ Benjamin Sileo*
Name: Benjamin Sileo
Title: Vice President

[Signature Page to Credit Agreement]

JPMORGAN CHASE BANK, N.A.,
as a Revolving Credit Lender and an L/C Issuer

By: */s/ Joon Hur*
Name: Joon Hur
Title: Executive Director

[Signature Page to Credit Agreement]

MUFG Bank, Ltd.,
as a Revolving Credit Lender and an L/C Issuer

By: */s/ Kevin Wood*
Name: Kevin Wood
Title: Director

[Signature Page to Credit Agreement]

PNC Bank, National Association,
as a Revolving Credit Lender and an L/C Issuer

By: */s/ Michael Richards*
Name: Michael Richards
Title: SVP & Managing Director

SANTANDER BANK, N.A.,
as a Revolving Credit Lender and an L/C Issuer

By: */s/ Irv Roa*
Name: Irv Roa
Title: Managing Director

[Signature Page to Credit Agreement]

U.S. BANK NATIONAL ASSOCIATION,
as a Revolving Credit Lender and an L/C Issuer

By: */s/ Michael West*
Name: Michael West
Title: Senior Vice President

[Signature Page to Credit Agreement]

Wells Fargo Bank, N.A.,
as a Revolving Credit Lender and an L/C Issuer

By: */s/ Andrea Chen*
Name: Andrea Chen
Title: Managing Director

EMBECTA CORP.
CHARTER OF THE
AUDIT COMMITTEE
Effective March 20, 2022

Purpose

The Audit Committee is created by the Board of Directors of the Company to oversee the accounting and financial reporting processes of the Company and the audits of the Company's financial statements. In that regard, the Audit Committee:

- assist the Board of Directors in its oversight of:
  - the integrity of the financial statements and internal controls of the Company;
  - the qualifications, independence and performance of the Company's independent auditors;
  - the performance of the Company's internal audit function;
  - compliance with the ethical standards adopted by the Company;
  - compliance by the Company with legal and regulatory requirements as provided herein; and
  - the Company's enterprise risk assessment and risk management guidelines and policies.
- prepare the audit committee report that Securities and Exchange Commission ("SEC") rules require to be included in the Company's annual proxy statement; and
- when necessary, function as a Qualified Legal Compliance Committee in accordance with the provisions of 17 CFR Part 205.

Membership

The Audit Committee shall consist of at least three members, each of whom has been deemed by the Board of Directors to be "independent" and have the requisite experience under the Company's Corporate Governance Principles and the requirements of The Nasdaq Stock Market LLC ("Nasdaq"), subject to any phase-in periods or cure periods permitted by Rule 10A-3(b)(1)(iv)(A) under the Securities Exchange Act of 1934, as amended (the "Exchange Act") or Nasdaq Corporate Governance Requirements. All members of the Audit Committee shall be able to read and understand fundamental financial statements. No member of the Audit Committee shall have participated in the preparation of the financial statements of the Company in the past three years.

At least one member of the Audit Committee shall be an "audit committee financial expert" as defined by the SEC. However, one director who does not meet the Nasdaq definition of independence, but who meets the criteria set forth in Section 10A(m)(3) under the Exchange Act, and the rules thereunder, and who is not a current officer or employee or a family member of such individual, may serve for no more than two years on the Audit Committee if the Board of Directors, under exceptional and limited circumstances, determines that such individual's membership is required by the best interests of the Company and its shareholders. Such individual must satisfy the independence requirements set forth in Section 10A(m)(3) of the Exchange Act, and may not chair the Audit Committee. The use of this "exceptional and limited circumstances" exception, as well as the nature of the individual's relationship to the Company and the basis for the Board of Directors' determination, shall be disclosed in the Company's annual proxy statement.

In addition, if an Audit Committee member ceases to be independent for reasons outside the member's reasonable control, his or her membership on the Audit Committee may continue until the earlier of the Company's next annual shareholders' meeting or one year from the occurrence of the event that caused the failure to qualify as independent. If the Company is not already relying on this provision, and falls out of compliance with the requirements regarding Audit Committee composition due to a single vacancy on the Audit Committee, then the Company will have until the earlier of the next annual shareholders' meeting or one year from the occurrence of the event that caused the failure to comply with this requirement. The Company shall provide notice to Nasdaq immediately upon learning of the event or circumstance that caused the non-compliance, if it expects to rely on either of these provisions for a cure period.

The Corporate Governance and Nominating Committee shall recommend nominees for appointment to the Audit Committee annually and as vacancies or newly-created positions occur. Audit Committee members shall be appointed by the Board of Directors and may be removed by the Board of Directors at any time. The Corporate Governance and Nominating Committee shall recommend to the Board of Directors, and the Board of Directors shall designate, the Chair of the Audit Committee.

Authority and Responsibilities

In addition to any other responsibilities that may be assigned to it from time-to-time by the Board of Directors, the Audit Committee is responsible for the following matters:

Independent Auditors

The Audit Committee has the sole authority to appoint, compensate, retain, terminate, determine funding for and oversee the independent auditors of the Company, including sole authority to approve all audit engagement fees and terms, and pre-approve non-audit services to be provided by the Company's independent auditors. The Audit Committee may consult with management in the decision-making process, but may not delegate this authority to management. The Audit Committee may, from time-to-time, delegate its authority to pre-approve non-audit services to one or more Audit Committee members, provided that such designees present any such approvals to the full Audit Committee at the next Audit Committee meeting. The independent auditors shall report directly to the Audit Committee.

- The Audit Committee shall review and approve the scope of the independent auditors' annual audit plan(s) and shall oversee the audit and audit-related work of the independent auditors, including resolution of disagreements, if any, between management and the auditor regarding financial reporting.
- The Audit Committee shall evaluate the independent auditors' qualifications, performance and independence, and shall present its conclusions with respect to the independent auditors to the full Board of Directors on at least an annual basis. As part of such evaluation, at least annually, the Audit Committee shall:
    - obtain and review a report or reports from the Company's independent auditors:
        - describing the independent auditors' internal quality-control procedures;
        - describing any material issues raised by (i) the most recent internal quality- control review, peer review or Public Company Accounting Oversight Board ("PCAOB") review of the auditing firm, or (ii) any inquiry or investigation by governmental or professional authorities, within the preceding five years, regarding one or more independent audits carried out by the auditing firm; and any steps taken to deal with any such issues;
        - describing all relationships between the independent auditors and the Company, consistent with the requirements of the PCAOB; and
        - assuring that Section 10A of Exchange Act has not been implicated;
    - review and evaluate the partners of the independent auditor team(s), particularly the performance and independence of the lead audit and reviewing partners and ensure the rotation of the lead (or coordinating) audit partner having primary responsibility for the audit and audit partner responsible for reviewing the audit as required by law;
    - consider whether to rotate the independent auditors; and
    - obtain the opinion of management and the internal auditors on the independent auditors' performance.
- The Audit Committee shall establish policies for the Company's hiring of current or former employees of the independent auditors.

- The Audit Committee shall obtain from the independent auditor a formal written statement delineating all relationships between the independent auditor and the Company. It is the responsibility of the Audit Committee to actively engage in a dialogue with the independent auditor with respect to any disclosed relationships or services that may impact the objectivity and independence of the independent auditor and for purposes of taking, or recommending that the full Board take, appropriate action to oversee the independence of the outside auditor.

Internal Auditors

The Company's chief audit executive shall functionally report to the Audit Committee, and shall report for administrative purposes to the Chief Financial Officer of the Company. At least annually, the Audit Committee shall evaluate the performance, responsibilities, budget and staffing of the Company's internal audit function and review the internal audit plan. Such evaluation shall include a review of the responsibilities, budget and staffing of the Company's internal audit function with the independent auditors. The Audit Committee shall meet privately with the chief audit executive at least three (3) times per year, and the chief audit executive shall otherwise have full access to the Audit Committee.

Financial Statements and Disclosure

- The Audit Committee shall review and discuss with management (including the chief audit executive) and the independent auditors, in separate meetings if the Audit Committee deems it appropriate:
  - the annual audited financial statements, including the Company's specific disclosures under "Management's Discussion and Analysis of Financial Condition and Results of Operations," prior to the filing of the Company's Annual Report on Form 10-K;
  - the quarterly financial statements, including the Company's specific disclosures under "Management's Discussion and Analysis of Financial Condition and Results of Operations," prior to the filing of the Company's Quarterly Reports on Form 10-Q;
  - the annual audited financial statements of the Company's 401(k) Plan, prior to the filing of the plan's Annual Report on Form 11-K;
  - any analyses or other written communications prepared by management, the internal auditors and/or the independent auditors setting forth significant financial reporting issues and judgments made in connection with the preparation of the financial statements, including analyses of the effects of alternative Generally Accepted Accounting Principles ("GAAP") methods on the financial statements;

- the critical accounting policies and practices of the Company;
- information regarding any additional opinion sought by management from a third party auditing firm with respect to the accounting treatment of a particular event or transaction;
- off-balance sheet transactions and structures;
- any major issues regarding accounting principles and financial statement presentations, including any significant changes in the Company's selection or application of accounting principles;
- regulatory and accounting initiatives or actions applicable to the Company (including any SEC investigations or proceedings); and
- ensure that a public announcement of the Company's receipt of an audit opinion that contains a going concern qualification is made promptly.

- The Audit Committee shall review and discuss, in conjunction with management, the Company's earnings releases (paying particular attention to the use of "pro forma" or "adjusted" non-GAAP information) and the type and presentation of financial information (including earnings guidance) to be provided to analysts and rating agencies.
- The Audit Committee shall, in conjunction with the Chief Executive Officer and Chief Financial Officer of the Company, review the Company's internal controls over financial reporting and disclosure controls and procedures, including whether there are any significant deficiencies in the design or operation of such controls and procedures, material weaknesses in such controls and procedures, any corrective actions taken with regard to such deficiencies and weaknesses and any fraud involving management or other employees with a significant role in such controls and procedures.
- The Audit Committee shall review and discuss with the independent auditors any audit problems or difficulties and management's response thereto, including those matters required to be discussed with the Audit Committee by the independent auditors pursuant to Auditing Standards No. 16, Communication with Audit Committees, such as:
  - any restrictions on the scope of the independent auditors' activities or access to requested information;
  - any accounting adjustments that were noted or proposed by the independent auditors but were not adopted or reflected (as immaterial or otherwise);

- any communications between the audit team and the audit firm's national office regarding auditing or accounting issues presented by the engagement;
- any management or internal control letter issued, or proposed to be issued, by the auditors to the Company's Controller, Chief Financial Officer or Chief Executive Officer; and
- any significant disagreements between the Company's management and the independent auditors.

- The Audit Committee shall prepare the audit committee report that SEC rules require to be included in the Company's annual proxy statement.
- The Audit Committee shall, at the discretion of the Audit Committee Chair, review all SEC comment letters (and the Company's response thereto) concerning financial reporting matters relating to reports filed with or furnished to the SEC, and shall also review any significant governmental inquiries related to financial reporting or compliance matters and the Company's responses thereto.

Risk Management and Ethics and Compliance Matters

- The Audit Committee shall review, at least annually, the guidelines and policies that govern the process by which enterprise risk assessment and risk management are undertaken, including discussing with management any significant financial risk and cybersecurity and data privacy risk exposures and management's plan to monitor and mitigate or remediate any such exposures.
- The Audit Committee shall review the Company's Ethics and Enterprise Compliance program at least annually. Such review shall include:
  - A report of the chief ethics and compliance officer ("CECO") on the operation and effectiveness of the program (it being understood that (i) the Audit Committee shall also meet privately with the CECO at least once a year; and (ii) the CECO is authorized at any time to report directly to the Chair of the Audit Committee any actual or potential work-related criminal conduct involving an Embecta associate, or fraud or violation of law or policy involving a member of senior management, and shall otherwise have full access to the Audit Committee);
  - Methods and processes used by the Company to comply with applicable laws governing the Company's business practices, including laws regarding:
    - the Foreign Corrupt Practices Act;

- antitrust;
- employment practices, including equal employment opportunity, whistleblower complaints and similar matters;
- insider trading;
- environment, health and safety; and
- regulatory matters, including processes for recall and complaint handling.

- Procedures regarding compliance with the Company's Code of Conduct, including:
  - associate communication and training regarding expected standards of conduct; and
  - conflicts of interest and related party transactions (except where the Corporate Governance Principles or the Code of Conduct assign such responsibility to the Corporate Governance and Nominating Committee of the Board of Directors).

- The Audit Committee shall review all requests from the Company's executive officers and directors for waivers of any provision of the Code of Conduct, and, if the Audit Committee determines any such requests are appropriate after consultation with the Corporate Governance and Nominating Committee of the Board of Directors, may grant such waivers and shall review any related public disclosures. The Audit Committee shall report any such waivers to the full Board of Directors.
- The Audit Committee shall review on an annual basis the Company's financial strategies regarding currency, interest rate exposure and use of derivatives.
- The Audit Committee shall review on an annual basis the Company's insurance program.
- The Audit Committee shall establish, maintain and review procedures for: (i) the receipt, retention and treatment of complaints received by the Company regarding accounting, internal accounting controls or auditing matters, and (ii) the confidential, anonymous submission by employees of the Company of concerns regarding questionable accounting or auditing matters. The Audit Committee shall review any significant complaints regarding accounting, internal accounting controls or auditing matters received pursuant to such procedures.

Shareholder Proposals

The Audit Committee shall review shareholder proposals that relate to matters within the scope of the Audit Committee's responsibilities, and review and make recommendations to the Board of Directors regarding such proposals.

Functioning as a Qualified Legal Compliance Committee

The Audit Committee shall function as a Qualified Legal Compliance Committee ("QLCC") to review any report by an attorney representing the Company or its subsidiaries of a material violation of U.S. federal or state securities law, a material breach of fiduciary duty arising under U.S. federal or state law or a similar material violation of any U.S. federal or state law (each, a "material violation"), all in accordance with the provisions of 17 CFR Part 205, as amended from time-to-time ("Part 205"). Any terms not otherwise defined herein shall have the definitions given them, if any, in Part 205. In its capacity as the QLCC, the Audit Committee shall have responsibility for the matters set forth in Appendix A to this charter.

Reporting to the Board of Directors

The Audit Committee shall report to the Board of Directors periodically. This report shall include a review of any issues that arise with respect to the quality or integrity of the Company's financial statements, the qualifications, independence and performance of the Company's independent auditors, the performance of the internal audit function, compliance by the Company with legal and regulatory requirements and ethical standards, and any other matters that the Audit Committee deems appropriate or is requested to be included by the Board of Directors. Additionally, the Audit Committee shall review and discuss with the Board of Directors management's enterprise risk assessment and plans for any risk mitigation or remediation, including a review of oversight of identified risks by various committees of the Board of Directors.

At least annually, the Audit Committee shall evaluate its own performance and report to the Board of Directors on such evaluation.

The Audit Committee shall, at least annually, review and assess the adequacy of this charter and recommend any proposed changes to the Board of Directors.

Procedures

The Audit Committee shall meet as often as it determines is appropriate to carry out its responsibilities under this charter, but not less frequently than quarterly. The Chair of the Audit Committee, in consultation with the other Audit Committee members and management, shall determine the frequency and length of the Audit Committee meetings and shall determine meeting agendas consistent with this charter.

The Audit Committee shall meet separately, periodically, with management, with internal auditors or other personnel responsible for the internal audit function and with the independent auditors.

The Audit Committee is authorized to retain legal, accounting and other advisors as it determines necessary to carry out its duties, and may request any officer or employee of the Company, or the Company's outside counsel, or independent auditors to meet with any members of, or advisors to, the Audit Committee.

The Company shall provide for appropriate funding, as determined by the Audit Committee, for: (i) the costs of the independent auditors, (ii) the costs of any legal or other advisors retained by the Audit Committee, and (iii) the administrative expenses of the Audit Committee that are necessary or appropriate to carrying out its duties.

The Audit Committee may delegate its authority to subcommittees or to the Chair of the Audit Committee when it deems it appropriate and in the best interests of the Company.

Limitations Inherent in the Audit Committee's Role

While the Audit Committee has the responsibilities and powers set forth in this Charter, it is not the duty of the Audit Committee to plan or conduct audits or to determine that the Company's financial statements are complete and accurate and are in accordance with generally accepted accounting principles. This is the responsibility of management and the independent auditors. Nor is it the duty of the Audit Committee to conduct investigations, to ensure compliance with laws and regulations and the Code of Conduct, or to assess and manage the Company's exposure to risk. This is the responsibility of management, subject to oversight by the Board of Directors.

APPENDIX A

THE AUDIT COMMITTEE'S RESPONSIBILITIES AS A QUALIFIED LEGAL COMPLIANCE COMMITTEE

In its capacity as the Qualified Legal Compliance Committee, the Audit Committee shall have responsibility for the following matters:

- The Audit Committee shall follow the procedures set out below for the confidential receipt, retention and consideration of any report of evidence of a material violation under Part 205 (a "report"):
  - If an attorney becomes aware of evidence of a material violation, the attorney may report such evidence to the Audit Committee. In addition, the Company's General Counsel may refer a report of evidence of a material violation to the Audit Committee.
  - Any report or referral under this charter shall be made in the first instance to the Chair of the Audit Committee by direct communication, either in person or by telephone. If it is an exigent matter and the Chair of the Audit Committee is unavailable, then the attorney shall report the matter to another member of the Audit Committee.
  - A reporting attorney shall ensure that the person to whom he or she reports is expressly advised that the attorney is making a report or referral under this charter.
  - Reports to the Audit Committee by an attorney or the Company's General Counsel shall be subject to the attorney-client privilege. The Audit Committee shall maintain the confidentiality of such reports, except to the extent the Audit Committee deems it necessary to disclose such reports or related information in carrying out its functions under this charter and the SEC rules.
- Upon receipt of a report, the Audit Committee shall:
  - inform the Company's General Counsel and Chief Executive Officer of such report, unless such notification would be futile; and
  - determine whether an investigation is necessary regarding any report of evidence of a material violation by the Company, its officers, directors, employees or agents.
- If the Audit Committee determines an investigation is necessary or appropriate, the Audit Committee shall:
  - notify the Board of Directors; and

- initiate an investigation, which may be conducted either by the General Counsel or by outside attorneys.

- At the conclusion of any such investigation, the Audit Committee shall:
  - Recommend that the Company implement an appropriate response to the evidence of a material violation, which appropriate response may include:
    - a finding that no material violation has occurred, is ongoing or is about to occur;
    - the adoption of appropriate remedial measures, including appropriate steps or sanctions to stop any material violations that are ongoing, to prevent any material violation that has yet to occur, and to remedy or otherwise appropriately address any material violation that has already occurred and to minimize the likelihood of its recurrence; or
    - retaining or directing an attorney to review the reported evidence of a material violation, and either (i) the Company substantially implements any remedial recommendations made by such attorney after a reasonable investigation and evaluation of the reported evidence, or (ii) the attorney advises the Company that such attorney may, consistent with his or her professional obligations, assert a colorable defense on behalf of the Company or its officers, directors, employees or agents, in any investigation or judicial or administrative proceeding relating to the reported evidence or a material violation; and
    - inform the General Counsel, the Chief Executive Officer and the Board of Directors of the results of any such investigation initiated by the Audit Committee, and the appropriate remedial measures to be adopted.
- The Audit Committee may take all other appropriate action, including notifying the SEC, if the Company fails in any material respect to implement an appropriate response that the Audit Committee has recommended that the Company take.

EMBECTA CORP.
CHARTER OF THE
COMPENSATION AND MANAGEMENT DEVELOPMENT COMMITTEE
Effective April 1, 2022

Purpose

The Compensation and Management Development Committee (the "Committee") is created by the Board of Directors of the Company to:

- oversee the Company's compensation and benefits practices and policies generally and specifically as they pertain to "senior executives" (as defined below), which shall include
    - reviewing the structure of the Company's incentive plans, employee deferred compensation plans, health and welfare plans, retirement (including supplemental retirement) plans, equity-based plans (including the Embecta 2022 Employee and Director Equity Based Compensation Plan) and other significant employee benefit plans maintained or proposed to be established by the Company or any subsidiary of the Company (collectively, the "Covered Plans"); and
    - determining or recommending compensation for the Company's senior executives, as described below.
- prepare the compensation committee report that Securities and Exchange Commission ("SEC") rules require to be included in the Company's annual proxy statement.
- Oversee the Company's policies and strategies relating to human capital management.

Membership

The Committee shall consist of at least three members, each of whom has been deemed "independent" by the Board of Directors under the Company's Corporate Governance Principles and the independence requirements of The Nasdaq Stock Market LLC ("Nasdaq"). In addition, each member shall meet the definition of a "nonemployee director" within the meaning of Rule 16b-3(b)(3) under the Securities Exchange Act of 1934, as amended (the "Act") (provided, that any inadvertent non-compliance shall not impair the authority of the Committee or the validity of any actions taken by the Committee).

The Corporate Governance and Nominating Committee shall recommend nominees for appointment to the Committee annually and as vacancies or newly created positions occur. Committee members shall be appointed by the Board of Directors and may be removed by the Board of Directors at any time. The Corporate Governance and Nominating Committee shall recommend to the Board of Directors, and the Board of Directors shall designate, the Chair of the Committee.

Authority and Responsibilities

In addition to any other responsibilities that may be assigned from time-to-time by the Board of Directors, the Committee is responsible for the following matters.

Covered Plans and Administration

- The Committee shall review the structure of the Covered Plans, including their scope of participation, level of benefits and other terms, and make any recommendations to the Board of Directors (subject, if applicable, to shareholder ratification or approval) with respect to the establishment or modification of any such plans that it deems appropriate. In reviewing the Covered Plans, the Committee may consider any factors that it deems appropriate.

- The Committee shall recommend to the Board of Directors the appointment of employee committees to administer the Covered Plans, to the extent provided in the Covered Plans.

- The Committee shall serve as the granting and administrative committee for the Company's stock option and other equity-based plans; provided, that the Committee may delegate to one or more officers of the Company the authority to make grants and awards (other than grants and awards to any officer of the Company subject to Section 16 of the Act) under such of the Company's incentive compensation or other equity-based plans as the Committee deems appropriate and in accordance with the terms of such plans.

Executive Compensation

- The Committee shall evaluate and either recommend or set, as described below, the compensation of the Chief Executive Officer and any other executive officer of the Company (collectively, the "senior executives"). For purposes of this charter, "compensation" shall include: (i) annual base salary, (ii) annual incentive compensation, (iii) long-term incentive compensation, (iv) employment, severance and change-in-control agreements, if any, with the Company or any subsidiary and (v) any other compensation or ongoing perquisites. In connection therewith, the Committee shall, among other things:
    - set corporate performance goals for performance-based equity compensation awards and other performance-based incentive awards granted to senior executives and determine the Company's performance relative to such goals;
    - together with the other independent members of the Board, review and approve such other goals and objectives of the Chief Executive Officer as are relevant to the Chief Executive Officer's compensation (the Chief Executive Officer may not be present during voting or deliberations on his or her own compensation);

- participate with the other independent members of the Board of Directors in an annual evaluation of the Chief Executive Officer's performance in light of the previously-established goals and objectives, and recommend the Chief Executive Officer's compensation for approval by the full Board of Directors (excluding the non-independent members of the Board of Directors) based on such evaluation and such other factors as may be deemed appropriate and in the best interests of the Company;
- review the Chief Executive Officer's evaluation of the performance of other executive officers of the Company, in light of goals and objectives set for such persons, and, either as a committee or together with the other independent members of the Board of Directors (as directed by the Board of Directors), approve the compensation of each of the other executive officers based on such evaluation and such other factors as may be deemed appropriate and in the best interests of the Company; and
- consider, in recommending or determining, as applicable, the compensation of each senior executive, the Company's performance, shareholder return and the value of compensation provided at comparable companies, and such other factors as the Committee deems appropriate and in the best interests of the Company.

Human Capital Management

- Review the Company's policies and strategies relating to human capital management, including without limitation:
  - The Company's policies and strategies relating to recruiting, developing and promoting associates, performance management, senior management succession, pay equity, and diversity and inclusion; and
  - The Company's leadership development initiatives designed to accelerate development and readiness of current and future Senior Management Team members, including reviews of the Company's process to identify such potential leaders and leadership candidates, and the development programs designed to accelerate readiness for next roles of higher responsibility.

- The Company's policies and strategies relating to associate health, safety and well-being.

Other

- Review all consulting and employment contracts between the Company or any subsidiary thereof and any former executive officer.
- The Committee shall review and recommend to the Board of Directors, as appropriate, share retention and ownership guidelines for senior management and any modifications to such guidelines, and shall periodically review compliance with such guidelines.

Disclosure

- The Committee shall review the Compensation Discussion and Analysis section of the Company's annual proxy statement, and shall prepare the compensation committee report that SEC rules require to be included in the Company's annual proxy statement.

Advisory Votes/Shareholder Proposals

- The Committee shall review the annual management proposal relating to the shareholder advisory vote on executive compensation and any management proposals relating to the frequency of such advisory votes, and review any shareholder proposals that relate to matters within the scope of the Committee's responsibilities and make recommendations to the Board of Directors regarding such proposals.

Reporting to the Board of Directors

- The Committee shall report to the Board of Directors periodically. This report shall include a review of any recommendations or issues that arise with respect to Company compensation and benefits policies overseen by the Committee, senior executive compensation, and any other matters that the Committee deems appropriate or is requested to be included by the Board of Directors.
- At least annually, the Committee shall evaluate its own performance and report to the Board of Directors on such evaluation.
- The Committee shall, at least annually, review and assess the adequacy of this charter and recommend any proposed changes to the Corporate Governance and Nominating Committee.

Procedures

The Committee shall meet as often as it determines is appropriate to carry out its responsibilities under this charter. The Chair of the Committee, in consultation with the other committee members and management, shall determine the frequency and length of the committee meetings and shall determine meeting agendas consistent with this charter.

The Committee is authorized to retain or obtain advice from legal and other advisors as it determines necessary to carry out its duties, and may request any officer or employee of the Company, or the Company's outside counsel, to meet with any members of, or advisors to, the Committee. Selection of an advisor may be made only after considering all factors relevant to the advisor's independence from management, including the factors set forth in the rules of Nasdaq, and the Committee shall be directly responsible for the appointment, compensation and oversight of the work of such advisor. Without limiting the foregoing, the Committee has the sole authority to retain and terminate any compensation consultant assisting the Committee in carrying out its responsibilities under this charter, including sole authority to approve all such compensation consultants' fees and other retention terms.

The Company shall provide for appropriate funding, as determined by the Committee, for (i) the costs of any consultant or legal or other advisors retained by the Committee and (ii) the administrative expenses of the Committee that are necessary or appropriate to carrying out its duties.

The Committee may delegate its authority to subcommittees or to the Chair of the Committee when it deems it appropriate and in the best interests of the Company.

EMBECTA CORP.
CHARTER OF THE
CORPORATE GOVERNANCE AND NOMINATING COMMITTEE
Effective April 1, 2022

Purpose

The Corporate Governance and Nominating Committee (the "Governance Committee") is created by the Board of Directors of the Company to:

- identify individuals qualified to become members of the Board of Directors, and recommend to the Board director nominees for election at the next annual or special meeting of shareholders at which directors are to be elected, or to fill any vacancies or newly-created directorships that may occur between such meetings;
- recommend directors for appointment to committees of the Board of Directors, and recommend a director for appointment as the Board Chair or Lead Director (as appropriate);
- oversee the evaluation of the Board of Directors' performance;
- oversee and recommend to the Board of Directors compensation for the Company's non-management directors;
- oversee the Company's governance structure, corporate governance practices and shareholder rights, and review and recommend to the Board of Directors, as appropriate, revisions to the Company's Amended and Restated Certificate of Incorporation, By-laws and Corporate Governance Principles;
- oversee the Company's processes and practices relating to the management and oversight of ESG Matters (as defined below); and
- oversee the Company's director orientation and continuing education program.

Membership

The Governance Committee shall consist of at least three members, each of whom has been deemed "independent" by the Board of Directors under the Company's Corporate Governance Principles and the independence requirements of The Nasdaq Stock Market LLC ("Nasdaq"). The Board of Directors shall appoint members to the Governance Committee annually and as vacancies or newly-created positions occur. Governance Committee members may be removed by the Board of Directors at any time. The Governance Committee shall recommend to the Board of Directors, and the Board of Directors shall designate, the Chair of the Governance Committee.

EMBECTA CORP.
CHARTER OF THE
CORPORATE GOVERNANCE AND NOMINATING COMMITTEE
Effective April 1, 2022

Authority and Responsibilities

In addition to any other responsibilities that may be assigned to it from time-to-time by the Board of Directors, the Governance Committee is responsible for the following matters:

Board of Directors Nominees/Committee Members/Lead Director

- Identify qualified individuals for membership on the Board of Directors, which includes a review of nominee recommendations received from the Company's shareholders and others.
- Recommend criteria for membership on the Board of Directors.
- Recommend individuals for membership on the Board of Directors, directors for appointment to committees thereof and committee chairs, and an independent director for appointment by the independent directors as the Lead Director (when the Board Chair is not an independent director). The review of Board of Directors' committee assignments and the appointment of the Lead Director (if applicable) shall be undertaken at least annually. In making its recommendations, the Governance Committee shall:
    - review candidates' qualifications for membership on the Board of Directors or a committee thereof or for appointment as the Lead Director;
    - in evaluating a current director for re-nomination to the Board of Directors or re-appointment to any committees thereof, or for re-appointment as the Lead Director, assess the performance of such director;
    - periodically review the composition of the Board of Directors and its committees, and, in light of the current challenges and needs of the Board of Directors and of each committee, determine whether it is appropriate to increase or reduce the size, or change the membership, of the Board and of each committee after considering issues of judgment, diversity, age, skills, background and experience;
    - consider rotation of committee members, committee Chairs and the Lead Director; and
    - consider such other factors as are set forth in the Company's Corporate Governance Principles or are otherwise deemed appropriate by the Governance Committee.

EMBECTA CORP.
CHARTER OF THE
CORPORATE GOVERNANCE AND NOMINATING COMMITTEE
Effective April 1, 2022

Evaluating the Board of Directors and its Committees

- At least annually, lead the Board of Directors in a self-evaluation to determine whether it and its committees are functioning effectively. The Governance Committee shall oversee the evaluation process and report on such process and the results of the evaluations, including any recommendations for proposed changes, to the Board of Directors.
- Periodically review the responsibilities of the Board of Directors and its committees and recommend to the Board of Directors any proposed changes, including material changes to charters of the committees of the Board of Directors.

Non-Management Director Compensation

- Review and recommend to the Board of Directors compensation (including equity-based compensation) for the Company's non-management directors. In so reviewing non-management director compensation, the Governance Committee shall consider the compensation (and mix of compensation elements) paid to non-management directors at comparable companies and such other factors as the Governance Committee deems appropriate and in the best interests of the Company; and
- Review and make recommendations to the Board of Directors regarding all consulting and employment contracts between the Company or any subsidiary thereof and any active or retired director.

Corporate Governance Matters

- Oversee the Company's governance structure, corporate governance practices and shareholder rights generally. Without limiting the generality of the foregoing, this shall include reviewing and reassessing the adequacy of the Company's By-laws and Corporate Governance Principles, and recommending any proposed changes to the Board of Directors, at least annually.
- Whenever appropriate, recommend to the Board of Directors any proposed changes to the Amended and Restated Certificate of Incorporation.
- Review the Company's Annual Report on Form 10-K and proxy statement (except for those sections of each document assigned for review to other committees of the Board of Directors) prior to their filing.
- Review and make recommendations to the Board of Directors regarding all shareholder proposals submitted for inclusion in the Company's annual proxy statement, other than those subject to review by other committees.
- Review and make recommendations to the Board of Directors for action regarding the independence of directors.

- Annually review compliance with director share ownership guidelines (and recommend to the Board any changes to such guidelines it deems appropriate) and director attendance at Board of Directors and committee meetings.
- Undertake any responsibilities assigned to it from time-to-time in the Company's Corporate Governance Principles.

Director Orientation and Continuing Education

- Develop and review an orientation and continuing education program for directors meeting the requirements set forth in the Company's Corporate Governance Principles and by Nasdaq.

ESG Matters

- The Governance Committee shall be responsible for reviewing matters impacting the Company's reputation and its standing as a responsible corporate citizen, and will review the Company's processes and practices relating to the management and oversight of environmental, sustainability, health and safety, inclusion and diversity, political activities, corporate responsibility and other public policy or social matters relevant to the Company (defined as "ESG Matters"), including:
    - The Company's goals, metrics and targets for measuring performance with respect to ESG Matters.
    - Management's processes for identifying and monitoring the Company's performance with respect to ESG Matters.
    - The reporting of the Company's performance on ESG Matters to internal and external stakeholders.
- While the Audit Committee is responsible for reviewing the alignment of the Company's crisis management process, capabilities and resources with the Company's enterprise risk management framework, the Committee, as part of its oversight of matters impacting the Company's reputation generally, shall review the Board's oversight of crisis management, including the Board's role in responding to any crisis, and recommend any changes it deems appropriate to the Board.

Reporting to the Board of Directors

- The Governance Committee shall report to the Board of Directors periodically. This report shall include a review of any recommendations or issues that arise with respect to the Board of Directors or committee nominees or membership, the Board of Directors' performance, corporate governance or any other matters that the Governance Committee deems appropriate or is requested to be included by the Board of Directors.

- At least annually, the Governance Committee shall evaluate its own performance and report to the Board of Directors on such evaluation.
- The Governance Committee shall, at least annually, review and assess the adequacy of this charter and recommend any proposed changes to the Board of Directors for approval.

Procedures

The Governance Committee shall meet as often as it determines is appropriate to carry out its responsibilities under this charter. The Chair of the Governance Committee, in consultation with the other Governance Committee members and management, shall determine the frequency and length of the Governance Committee meetings and shall determine meeting agendas consistent with this charter.

The Governance Committee has the sole authority to retain and terminate any search firm assisting the Governance Committee in identifying director candidates, including sole authority to approve all such search firm's fees and other retention terms. In addition, the Governance Committee has the sole authority to retain and terminate any compensation consultant assisting the Governance Committee in the evaluation of director compensation, including sole authority to approve all such compensation consultant's fees and other retention terms.

The Governance Committee is authorized to retain legal and other advisors as it determines necessary to carry out its duties, and may request any officer or employee of the Company, or the Company's outside counsel, to meet with any members of, or advisors to, the Governance Committee.

The Company shall provide for appropriate funding, as determined by the Governance Committee, for (i) the costs of any search firm, consultant, legal or other advisors retained by the Governance Committee and (ii) the administrative expenses of the Governance Committee that are necessary or appropriate to carrying out its duties.

The Governance Committee may delegate its authority to subcommittees or to the Chair of the Governance Committee when it deems it appropriate and in the best interests of the Company.

EMBECTA CORP.
CHARTER OF THE
TECHNOLOGY COMMITTEE
Effective April 1, 2022

Purpose

The Technology Committee (the "Committee") is created by the Board of Directors of the Company to assist the Board in overseeing innovation, new product development and commercialization, and research and development ("R&D") activities at the Company.

Membership

The Committee shall consist of at least three members of the Board of Directors. Committee members need not be "independent" under the Company's Corporate Governance Principles and the independence requirements of The Nasdaq Stock Market LLC. The Corporate Governance and Nominating Committee shall recommend nominees for appointment to the Committee annually and as vacancies or newly created positions occur. Committee members shall be appointed by the Board of Directors and may be removed by the Board of Directors at any time. The Corporate Governance and Nominating Committee shall recommend to the Board of Directors, and the Board of Directors shall designate, the Chair of the Committee.

Authority and Responsibility

In addition to any other responsibilities that may be assigned to it from time-to-time by the Board of Directors, the Committee is responsible for oversight of matters relating to innovation, new product development and commercialization, and research and development activities at the Company. Such oversight shall include the following:

- Reviewing with management the Company's key programs, systems and practices in order to enhance the value of the Company's innovation programs, improve product development and launch effectiveness and increase R&D productivity. Such review may include:
    - monitoring the Company's progress against program objectives, including revenue, efficiency and product development targets.
    - reviewing organizational integration, capabilities and systems in light of program objectives, including without limitation, in the areas of marketing and medical affairs.
    - reviewing and providing guidance on potentially disruptive trends, opportunities and risks in technology, medical practices, or external market conditions.
    - to the extent requested by the Board or another committee of the Board, reviewing any significant product quality issues relating to any particular product or platform, including cybersecurity.

- Site-based visits, when appropriate, for a hands-on perspective with respect to the above.

- Shareholder Proposals
  - Review of shareholder proposals that relate to matters within the scope of the Committee's responsibilities, in order to review and make recommendations to the Board of Directors regarding such proposals.

Reporting to the Board of Directors

The Committee shall report to the Board of Directors periodically on matters reviewed by the Committee, and any other matter that the Committee deems appropriate or is requested to be included by the Board of Directors.

At least annually, the Committee shall evaluate its own performance and report to the Board of Directors on such evaluation.

The Committee shall, at least annually, review and assess the adequacy of this Charter and recommend any proposed changes to the Corporate Governance and Nominating Committee.

Procedures

The Committee shall meet as often as it determines is appropriate to carry out its responsibilities under this Charter. The Chair of the Committee, in consultation with the other Committee members and management, shall determine the frequency and length of Committee meetings, and shall determine meeting agendas consistent with this Charter.

The Committee is authorized to retain legal and any other advisors as it determines necessary to carry out its duties, and may request any officer or employee of the Company, or the Company's outside counsel, to meet with any members of, or advisors to, the Committee.

The Company shall provide for appropriate funding, as determined by the Committee, for (i) the costs of any legal or other advisors retained by the Committee and (ii) the administrative expenses of the Committee that are necessary or appropriate to carrying out its duties.

The Committee may delegate its authority to subcommittees or to the Chair of the Committee when it deems it appropriate and in the best interests of the Company.

EMBECTA CORP.
2022 EMPLOYEE AND DIRECTOR EQUITY-BASED COMPENSATION PLAN

Section 1. *Purpose.*

The purpose of the Embecta Corp. 2022 Employee and Director Equity-Based Compensation Plan is to provide an incentive to employees of the Company and its subsidiaries to achieve long-range goals, to aid in attracting and retaining employees and directors of outstanding ability and to closely align their interests with those of shareholders.

Section 2. *Definition.*

As used in the Plan, the following terms shall have the meanings set forth below:

(a) **"Affiliate"** shall mean (i) any entity that, directly or indirectly, is controlled by the Company and (ii) any entity in which the Company has a significant equity interest, in each case as determined by the Committee.

(b) "**Assumed Spin-Off Award**" means an award granted to certain employees, consultants and directors of the Company; Becton, Dickinson and Company and their respective subsidiaries under an equity compensation plan maintained by Becton, Dickinson and Company, which Award is assumed by the Company in connection with the Spin-Off, pursuant to the terms of the Employee Matters Agreement.

(c) **"Award"** shall mean any Option, Stock Appreciation Right, award of Restricted Stock, Restricted Stock Unit, Performance Unit or Other Stock-Based Award granted under the Plan, including an Assumed Spin-Off Award.

(d) **"Award Agreement"** shall mean any written agreement, contract or other instrument or document evidencing any Award granted under the Plan, which may, but need not, be executed or acknowledged by a Participant.

(e) **"Board"** shall mean the board of directors of the Company.

(f) **"Cause"** shall mean, unless otherwise provided in an Award Agreement, (i) "Cause" as defined in any employment, severance or change of control agreement then in effect between a Participant and the Company or any Affiliate, or in any Severance Plan in which a Participant participates (in each case, to the extent governing the applicable termination of employment) or, if not defined therein or if there shall be no such agreement or plan, (ii) (A) indictment for, conviction of, or plea of guilty or *nolo contendere* by, the Participant for committing a crime (other than a vehicular misdemeanor), (B) the willful and continued failure of a Participant to perform substantially the Participant's duties with the Company or any Affiliate (other than any such failure resulting from incapacity due to physical or mental illness), (C) the willful engaging by the Participant in illegal conduct or gross misconduct that is materially and demonstrably injurious to the Company, (D) dishonesty in the course of fulfilling the Participant's

employment duties, or (E) a material violation of the Company's (or its applicable Affiliate's) ethics and compliance program, code of conduct or other material policy of the Company and its Affiliates. The determination of the existence of Cause shall be made by the Committee in good faith, which determination shall be conclusive for purposes of Plan and any Awards granted under the Plan, except that notwithstanding the foregoing and the provisions of Section 4, following a Change in Control, any determination by the Committee as to whether Cause exists shall be subject to *de novo* review.

(g) **"Change in Control"** means

(i) the acquisition by any individual, entity or group (within the meaning of Section 13(d)(3) or 14(d)(2) of the Securities Exchange Act of 1934, as amended (the **"Exchange Act"**)) (a "Person") of beneficial ownership (within the meaning of Rule 13d-3 promulgated under the Exchange Act) of 25% or more of either (A) the then-outstanding shares of common stock of the Company (the **"Outstanding Company Common Stock"**) or (B) the combined voting power of the then-outstanding voting securities of the Company entitled to vote generally in the election of directors (the **"Outstanding Company Voting Securities"**); *provided, however,* that, for purposes of this Section 2(g), the following acquisitions shall not constitute a Change in Control: (i) any acquisition directly from the Company; (ii) any acquisition by the Company, or (iii) any acquisition by any employee benefit plan (or related trust) sponsored or maintained by the Company or any affiliated company, (iv) any acquisition by any corporation pursuant to a transaction that complies with Section 2(g)(iii)(A), Section 2(g)(iii)(B) and Section 2(g)(iii)(C), or (v) any acquisition that the Board determines, in good faith, was inadvertent, if the acquiring Person divests as promptly as practicable a sufficient amount of the Outstanding Company Common Stock and/or the Outstanding Company Voting Securities, as applicable, to reverse such acquisition of 25% or more thereof;

(ii) individuals who, as of the day after the effective time of this Plan, constitute the Board (the **"Incumbent Board"**) cease for any reason to constitute at least a majority of the Board; provided, however, that any individual becoming a director subsequent to such time whose election, or nomination for election as a director by the Company's shareholders, was approved by a vote of at least a majority of the directors then comprising the Incumbent Board shall be considered as though such individual were a member of the Incumbent Board, but excluding, for this purpose, any such individual whose initial assumption of office occurs as a result of an actual or threatened election contest with respect to the election or removal of directors or other actual or threatened solicitation of proxies or consent by or on behalf of a Person other than the Board;

(iii) consummation of a reorganization, merger, consolidation or sale or other disposition of all or subsequently all of the assets of the Company (a **"Business Combination"**), in each case, unless, following such Business Combination, (A) all or substantially all of the individuals and entities that were the beneficial owners of the Outstanding Company Common Stock and the Outstanding Company Voting Securities immediately prior to such Business Combination beneficially own, directly or indirectly, more than 50% of the then-outstanding shares of common stock and the combined voting power of the then-outstanding voting securities entitled to vote generally in the election of

directors, as the case may be, of the corporation resulting from such Business Combination (including, without limitation, a corporation that, as a result of such transaction, owns the Company or all or substantially all of the Company's assets either directly or through one or more subsidiaries) in substantially the same proportions as their ownership immediately prior to such Business Combination of the Outstanding Company Common Stock and the Outstanding Company Voting Securities, as the case may be, (B) no Person (excluding any corporation resulting from such Business Combination or any employee benefit plan (or related trust) of the Company or such corporation resulting from such Business Combination) beneficially owns, directly or indirectly, 25% or more of, respectively, the then-outstanding shares of common stock of the corporation resulting from such Business Combination or the combined voting power of the then-outstanding voting securities of such corporation, except to the extent that such ownership existed prior to the Business Combination, and (C) at least a majority of the members of the board of directors of the corporation resulting from such Business Combination were members of the Incumbent Board at the time of the execution of the initial agreement or of the action of the Board providing for such Business Combination; or

(iv) approval by the shareholders of the Company of a complete liquidation or dissolution of the Company.

Notwithstanding the foregoing, with respect to any Award that constitutes "nonqualified deferred compensation" within the meaning of Section 409A of the Code, a Change in Control shall not constitute a settlement or distribution event with respect to such Award, or an event that otherwise changes the timing of settlement or distribution of such Award, unless the Change in Control also constitutes an event described in Section 409A(a)(2)(v) of the Code and the regulations thereto. For the avoidance of doubt, the preceding sentence shall have no bearing on whether an Award vests pursuant to the terms of this Plan or the applicable Award Agreement or otherwise.

(h) **"Code"** shall mean the Internal Revenue Code of 1986, as amended from time to time.

(i) **"Committee"** shall mean the Compensation and Benefits Committee of the Board or such other committee as may be designated by the Board.

(j) **"Company"** shall mean Embecta Corp.

(k) "**Disability**" shall mean a Participant's disability as determined in accordance with a disability insurance program maintained by the Company.

(l) **"409A Disability"** shall mean a Disability that qualifies as a total disability as defined below and determined in a manner consistent with Code Section 409A and the regulations thereunder: The Participant is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or can be expected to last for a continuous period of not less than 12 months. A Participant will be deemed to have suffered a 409A Disability if determined to be totally disabled by the Social Security Administration. In addition, the Participant will be deemed to have suffered a 409A Disability if determined to be disabled in accordance with a disability insurance program maintained by the Company, provided that the definition of disability applied under such disability insurance program complies with the requirements of Code Section 409A and the regulations thereunder.

(m) "**Disaffiliation**" means a Subsidiary's or an Affiliate's ceasing to be a Subsidiary or Affiliate for any reason (including as a result of a public offering, or a spinoff or sale by the Company, of the stock of the Subsidiary or Affiliate) or a sale of a division of the Company and its Affiliates.

(n) "**Employee Matters Agreement**" means the Employee Matters Agreement dated entered into between the Company and Becton, Dickinson and Company in connection with the Spin-Off.

(o) **"Fair Market Value"** of a Share shall mean, except as otherwise determined by the Committee, the closing price of a Share on the applicable stock exchange on the date of measurement or, if Shares were not traded on such exchange on such measurement date, then on the immediately preceding date on which Shares were traded on such exchange, as reported by such source as the Committee may select. If there is no regular public trading market for Shares, the Fair Market Value of a Share shall be determined by the Committee in good faith and, to the extent applicable, such determination shall be made in a manner that satisfies Sections 409A and 422(c)(1) of the Code.

(p) **"Incentive Stock Option"** shall mean an option representing the right to purchase Shares from the Company, granted under and in accordance with the terms of Section 6, that meets the requirements of Section 422 of the Code, or any successor provision thereto.

(q) **"Non-Qualified Stock Option"** shall mean an option representing the right to purchase Shares from the Company, granted under and in accordance with the terms of Section 6, that is not an Incentive Stock Option.

(r) **"Option"** shall mean an Incentive Stock Option or a Non-Qualified Stock Option.

(s) **"Other Stock-Based Award"** shall mean any right granted under Section 9.

(t) **"Participant"** shall mean an individual granted an Award under the Plan.

(u) **"Performance Unit"** shall mean any right granted under Section 8.

(v) **"Plan"** shall mean this Embecta Corp. 2022 Employee and Director Equity-Based Compensation Plan.

(w) **"Restricted Stock"** shall mean any Share granted under Section 7.

(x) **"Restricted Stock Unit"** shall mean a contractual right granted under Section 7 that is denominated in Shares. Each Unit represents a right to receive the value of one Share (or a percentage of such value, which percentage may be higher than 100%) upon the terms and conditions set forth in the Plan and the applicable Award Agreement. Awards of Restricted Stock Units may include, without limitation, the right to receive dividend equivalents.

(y) **"Retirement"** shall mean, unless otherwise set forth in an Award Agreement, a Separation from Service on or after the Participant's 60th birthday if the Participant has completed or is otherwise credited with five years of service as an employee of the Company or its Affiliates, or on or after the Participant's 55th birthday if the Participant has completed or is otherwise credited with ten years of service as an employee of the Company or its Affiliates.

(z) **"Separation from Service"** shall mean a termination of employment or other separation from service from the Company, as described in Code Section 409A and the regulations thereunder, including, but not limited to a termination by reason of Retirement or involuntary termination without Cause, but excluding any such termination where there is a simultaneous reemployment by the Company.

(aa) "**Severance Plan**" means a benefit plan that a Participant is covered by, which is sponsored by the Company or one of its Subsidiaries or Affiliates, which provides for severance, and, after a Change in Control, a change in control or salary continuation plan. If a Participant is party to both a severance plan and a change in control severance plan, the severance plan shall be the relevant "Severance Plan" prior to a Change in Control, and, the change in control or salary continuation plan or agreement shall be the relevant "Severance Plan" after a Change in Control.

(bb) **"Shares"** shall mean shares of the common stock of the Company, $0.01 par value.

(cc) **"Specified Employee"** shall mean a Participant who is deemed to be a specified employee in accordance with procedures adopted by the Company that reflect the requirements of Code Section 409A(2)(B)(i) and the guidance thereunder.

(dd) "**Spin-Off**" means the distribution of the outstanding Shares to the stockholders of Becton, Dickinson and Company in 2022, pursuant to the Separation and Distribution Agreement between the Company and Becton, Dickinson and Company entered into in connection with such distribution.

(ee) **"Stock Appreciation Right**" shall mean a right to receive a payment, in cash and/or Shares, as determined by the Committee, equal in value to the excess of the Fair Market Value of a Share at the time the Stock Appreciation Right is exercised over the exercise price of the Stock Appreciation Right.

(ff) **"Substitute Awards"** shall mean Awards granted in assumption of, or in substitution for, outstanding awards previously granted by a company acquired by the Company or with which the Company combines.

Section 3. *Eligibility.*

(a) Any individual who is employed by (including any officer), or who serves as a member of the board of directors of, the Company or any Affiliate shall be eligible to be selected to receive an Award under the Plan.

(b) An individual who has agreed to accept employment by the Company or an Affiliate shall be deemed to be eligible for Awards hereunder as of the date of such agreement.

(c) Holders of options and other types of Awards granted by a company acquired by the Company or with which the Company combines are eligible for grants of Substitute Awards hereunder.

Section 4. *Administration.*

(a) The Plan shall be administered by the Committee. The Committee shall be appointed by the Board and shall consist of not less than three directors, each of whom shall be independent, within the meaning of and to the extent required by applicable rulings and interpretations of the New York Stock Exchange and the Securities and Exchange Commission, and each of whom shall be a **"Non-Employee Director"**, as defined from time to time for purposes of Section 16 of the Securities Exchange Act of 1934 and the rules promulgated thereunder. The Board may designate one or more directors as alternate members of the Committee who may replace any absent or disqualified member at any meeting of the Committee. The Committee may issue rules and regulations for administration of the Plan. It shall meet at such times and places as it may determine. A majority of the members of the Committee shall constitute a quorum. Subject to applicable law and regulation (including stock exchange requirements), the Board may exercise any powers of the Committee.

(b) Subject to the terms of the Plan and applicable law, the Committee shall have full power and authority to: (i) designate Participants; (ii) determine the type or types of Awards (including Substitute Awards) to be granted to each Participant under the Plan; (iii) determine the number of Shares to be covered by (or with respect to which payments, rights, or other matters are to be calculated in connection with) Awards; (iv) determine the terms and conditions of any Award; (v) determine whether, to what extent, and under what circumstances Awards may be settled or exercised in cash, Shares, other securities, other Awards, or other property, or canceled, forfeited or suspended, and the method or methods by which Awards may be settled, exercised, canceled, forfeited or suspended; (vi) determine whether, to what extent, and under what circumstances cash, Shares, other securities, other Awards, other property, and other amounts payable with respect to an Award under the Plan shall be deferred either automatically or at the election of the holder thereof or of the Committee; (vii) interpret and administer the Plan and any instrument or agreement relating to, or Award made under, the Plan; (viii) establish, amend, suspend or waive such rules and regulations and appoint such agents as it shall deem appropriate for the proper administration of the Plan; (ix) determine whether and to what extent Awards should comply or continue to comply with any requirement of statute or regulation; (x) establish, adopt or revise rules and regulations and procedures relating to the operation and administration of the Plan to facilitate compliance with non-U.S. laws and procedures, facilitate administration of the Plan and/or take advantage of tax-favorable treatment for Awards granted to Participants outside the United States, in each case, as it may deem necessary or advisable (without limiting the generality of the foregoing, the Committee is specifically authorized (A) to adopt the rules and

procedures regarding the conversion of local currency, tax withholding procedures and handling of stock certificates which vary with local requirements and (B) to adopt sub-plans of the Plan and Plan addenda as the Committee deems desirable, to accommodate the foregoing); (xi) prescribe, amend and rescind rules and regulations relating to the Plan, including rules and regulations relating to sub-plans of the Plan and Plan addenda; and (xii) make any other determination and take any other action that the Committee deems necessary or desirable for the administration of the Plan. Notwithstanding the foregoing, the Plan will be interpreted and administered by the Committee in a manner that is consistent with the requirements of Code Section 409A to allow for tax deferral thereunder, and the Committee shall take no action hereunder that would result in a violation of Code Section 409A.

(c) All decisions of the Committee shall be final, conclusive and binding upon all parties, including the Company, the stockholders and the Participants.

Section 5. *Shares Available For Awards.*

(a) The number of Shares available for issuance under the Plan is 7,000,000 shares, which includes Shares subject to all Assumed Spin-Off Awards, subject to adjustment as provided below. Notwithstanding the foregoing and subject to adjustment as provided in Sections 5(e) and 5(f), the maximum number of Shares that may be granted pursuant to Stock Options intended to be Incentive Stock Options shall be 7,000,000 Shares. The maximum number of Shares available to be granted pursuant to Awards to any non-employee director under the Plan in any fiscal year of the Company shall be equal to $500,000 as of the applicable date of grant.

(b) If, after the effective date of the Plan, any Shares covered by an Award, or to which such an Award relates, are forfeited, if an Award is settled for cash, or if an Award otherwise terminates without the delivery of Shares, then the Shares covered by such Award, or to which such Award relates, to the extent of any such forfeiture or termination, shall again be, or shall become, available for issuance under the Plan, except that this Section 5(b) shall not apply to Substitute Awards.

(c) In the event that any Option or other Award granted hereunder (other than a Substitute Award) is exercised through the delivery of Shares, or in the event that withholding tax liabilities arising from such Option or Award are satisfied by the withholding of Shares by the Company, the number of Shares available for Awards under the Plan shall not be increased by the number of Shares so delivered or withheld.

(d) Any Shares delivered pursuant to an Award may consist, in whole or in part, of authorized and unissued Shares or of treasury Shares.

(e) In the event of a merger, consolidation, acquisition of property or shares, stock rights offering, liquidation, disposition for consideration of the Company's direct or indirect ownership of a Subsidiary or Affiliate (including by reason of a Disaffiliation), or similar event affecting the Company or any of its Subsidiaries (each, a "**Corporate Transaction**"), the Committee or the Board may in its discretion make such substitutions or adjustments as it deems appropriate and equitable to (A) the limits set forth in Section 5(a); (B) the number and kind of Shares or other securities subject to outstanding Awards; (C) the performance goals applicable to

outstanding Awards; and (D) the exercise price of outstanding Awards. In the event of a Corporate Transaction, such adjustments may include (I) the cancellation of outstanding Awards in exchange for payments of cash, property or a combination thereof having an aggregate value equal to the value of such Awards, as determined by the Committee in its sole discretion (it being understood that in the event of a Corporate Transaction with respect to which shareholders of Common Stock receive consideration other than publicly traded equity securities of the ultimate surviving entity, any such determination by the Committee that the value of an Option or Stock Appreciation Right shall for this purpose be deemed to equal the excess, if any, of the value of the consideration being paid for each Share pursuant to such Corporate Transaction over the exercise price of such Option or Stock Appreciation Right shall be deemed conclusively valid); (II) the substitution of other property (including cash or other securities of the Company and securities of entities other than the Company) for the Shares subject to outstanding Awards; and (III) in connection with any Disaffiliation, arranging for the assumption of Awards, or replacement of Awards with new awards based on other property or other securities (including other securities of the Company and securities of entities other than the Company), by the affected Subsidiary, Affiliate, or division or by the entity that controls such Subsidiary, Affiliate, or division following such Disaffiliation (as well as any corresponding adjustments to Awards that remain based upon Company securities).

(f) In the event of a stock dividend, stock split, reverse stock split, reorganization, share combination, or recapitalization or similar event affecting the capital structure of the Company, or a Disaffiliation, separation or spinoff, in each case without consideration, or other extraordinary dividend of cash or other property to the Company's shareholders, the Committee or the Board shall make such substitutions or adjustments as it deems appropriate and equitable to (A) the limits set forth in Section 5(a); (B) the number and kind of Shares or other securities subject to outstanding Awards; (C) the performance goals applicable to outstanding Awards; and (D) the exercise price of outstanding Awards.

(g) Any adjustments made pursuant to this Section 5 to Awards that are considered "nonqualified deferred compensation" subject to Section 409A of the Code shall be made in compliance with the requirements of Section 409A of the Code. Any adjustments made pursuant to this Section 5 to Awards that are not considered "nonqualified deferred compensation" subject to Section 409A of the Code shall be made in such a manner as to ensure that after such adjustments, either (A) the Awards continue not to be subject to Section 409A of the Code or (B) there does not result in the imposition of any penalty taxes under Section 409A of the Code in respect of such Awards.

(h) Shares underlying Substitute Awards shall not reduce the number of Shares remaining available for issuance under the Plan.

Section 6. *Options and Stock Appreciation Rights.*

The Committee is hereby authorized to grant Options and Stock Appreciation Rights to Participants with the following terms and conditions and with such additional terms and conditions, in either case not inconsistent with the provisions of the Plan, as the Committee shall determine:

(a) The exercise price per Share under an Option or Stock Appreciation Right shall be determined by the Committee; *provided, however*, that, except in the case of Substitute Awards, such exercise price shall not be less than the Fair Market Value of a Share on the date of grant of such Option or Stock Appreciation Right. The exercise price of a Substitute Award may be less than the Fair Market Value of a Share on the date of grant to the extent necessary for the value of Substitute Award to be substantially equivalent to the value of the award with respect to which the Substitute Award is issued, as determined by the Committee.

(b) The term of each Option and Stock Appreciation Right shall be fixed by the Committee but shall not exceed ten years from the date of grant thereof.

(c) The Committee shall determine the time or times at which an Option or Stock Appreciation Right may be exercised in whole or in part, and, with respect to Options, the method or methods by which, and the form or forms, including, without limitation, cash, Shares, other Awards, or other property, or any combination thereof, having a fair market value on the exercise date equal to the relevant exercise price, in which, payment of the exercise price with respect thereto may be made or deemed to have been made.

(d) The terms of any Incentive Stock Option granted under the Plan shall comply in all respects with the provisions of Section 422 of the Code, or any successor provision thereto, and any regulations promulgated thereunder.

(e) Section 11 sets forth certain additional provisions that shall apply to Options and Stock Appreciation Rights.

Section 7. *Restricted Stock And Restricted Stock Units.*

(a) The Committee is hereby authorized to grant Awards of Restricted Stock and Restricted Stock Units to Participants.

(b) Shares of Restricted Stock and Restricted Stock Units shall be subject to such restrictions as the Committee may impose (including, without limitation, any limitation on the right to vote a Share of Restricted Stock or the right to receive any dividend or other right or property), which restrictions may lapse separately or in combination at such time or times, in such installments or otherwise, as the Committee may deem appropriate.

(c) Any share of Restricted Stock granted under the Plan may be evidenced in such manner as the Committee may deem appropriate including, without limitation, book-entry registration or issuance of a stock certificate or certificates. In the event any stock certificate is issued in respect of shares of Restricted Stock granted under the Plan, such certificate shall be registered in the name of the Participant and shall bear an appropriate legend referring to the terms, conditions, and restrictions applicable to such Restricted Stock.

(d) Notwithstanding anything contained herein to the contrary and except as otherwise provided by the Committee at the time a Restricted Stock award is granted or in any amendment thereto, upon a Participant's (i) Separation from Service on account of Retirement, death or Disability, any and all remaining restrictions with respect to an award of Restricted Stock granted to the Participant shall lapse, and the Participant shall receive all of the Shares of Restricted Stock subject to the award, and (ii) voluntary termination, involuntary termination without Cause or involuntary termination with Cause, all Shares of Restricted Stock held by the Participant shall be forfeited as of the date of termination.

(e) Notwithstanding anything contained herein to the contrary and except as otherwise provided by the Committee at the time a Restricted Stock Unit award is granted or in any amendment thereto, upon a Participant's:

(i) Separation from Service on account of Retirement or Disability, any and all remaining restrictions with respect to Restricted Stock Units granted to the Participant shall lapse and the Participant shall receive any amounts otherwise payable with respect to such Restricted Stock Units as soon as administratively practicable thereafter (or at such later distribution date as may be set by the Committee at the time of the Award or in any amendment thereto), except that, for amounts subject to Code Section 409A, in the case of a Participant who is a Specified Employee, the payment of such amounts that are made on account of the Specified Employee's Separation from Service shall not be made prior to the earlier of (A) the first day of the seventh month following the Participant's Separation from Service (without regard to whether the Participant is reemployed on that date) or (B) death;

(ii) Separation from Service on account of involuntary termination without Cause, all Restricted Stock Units held by the Participant shall be forfeited as of the date of termination; provided, that the Committee may, in its discretion, authorize the payment to the Participant of all amounts payable with respect to such Restricted Stock Units. Notwithstanding the foregoing, for amounts subject to Code Section 409A, in the case of a Participant who is a Specified Employee, the payment of any amounts that are made on account of the Specified Employee's Separation from Service shall not be made prior to the earlier of (A) the first day of the seventh month following the Participant's Separation from Service (without regard to whether the Participant is reemployed on that date) or (B) death;

(iii) death, any and all remaining restrictions with respect to Restricted Stock Units granted to the Participant shall lapse and the Participant's beneficiary shall receive any amounts otherwise payable with respect to such Restricted Stock Units as soon as administratively practicable thereafter; and

(iv) voluntary termination or involuntary termination with Cause, all Restricted Stock Units held by the Participant shall be forfeited as of the date of termination.

Section 8. *Performance Units.*

(a) The Committee is hereby authorized to grant Performance Units to Participants.

(b) Subject to the terms of the Plan, a Performance Unit granted under the Plan (i) may be denominated or payable in cash, Shares (including, without limitation, Restricted Stock), other securities, other Awards, or other property and (ii) shall confer on the holder thereof rights valued as determined by the Committee and payable to, or exercisable by, the holder of the Performance Unit, in whole or in part, upon the achievement of such performance goals during such

performance periods as the Committee may establish. Subject to the terms of the Plan, the performance goals to be achieved during any performance period, the length of any performance period, the amount of any Performance Unit granted and the amount of any payment or transfer to be made pursuant to any Performance Unit shall be determined by the Committee.

(c) Notwithstanding anything contained herein to the contrary and except as otherwise provided by the Committee at the time a Performance Unit Award is granted or in any amendment thereto, upon a Participant's:

(i) Separation from Service on account of Retirement or involuntary termination without Cause prior to the expiration of any performance period applicable to a Performance Unit granted to the Participant, the Participant shall be entitled to receive, following the expiration of such performance period, a pro-rata portion of any amounts otherwise payable with respect to, or a pro-rata right to exercise, the Performance Unit;

(ii) death or 409A Disability prior to the expiration of any performance period applicable to a Performance Unit granted to the Participant, the Participant or the Participant's beneficiary shall receive upon such event a partial payment with respect to, or a partial right to exercise, such Performance Unit as determined by the Committee in its discretion;

(iii) Separation from Service on account of Disability (other than a 409A Disability) prior to the expiration for any performance period applicable to a Performance Unit granted to the Participant, the Participant shall be entitled to receive, following the expiration of such performance period, a partial payment with respect to, or a partial right to exercise, such Performance Unit as determined by the Committee in its discretion; and

(iv) voluntary termination or involuntary termination with Cause, all Performance Units held by the Participant shall be canceled as of the date of termination.

Section 9. *Other Stock-Based Awards.*

The Committee is hereby authorized to grant to Participants such other Awards (including, without limitation, rights to dividends and dividend equivalents) that are denominated or payable in, valued in whole or in part by reference to, or otherwise based on or related to, Shares (including, without limitation, securities convertible into Shares) as are deemed by the Committee to be consistent with the purposes of the Plan (provided that no rights to dividends and dividend equivalents shall be granted in tandem with an Award of Options or Stock Appreciation Rights). Subject to the terms of the Plan, the Committee shall determine the terms and conditions of such Awards. Shares or other securities delivered pursuant to a purchase right granted under this Section 9 shall be purchased for such consideration, which may be paid by such method or methods and in such form or forms, including, without limitation, cash, Shares, other securities, other Awards, or other property, or any combination thereof, as the Committee shall determine, the value of which consideration, as established by the Committee, shall, except in the case of Substitute Awards, not be less than the fair market value of such Shares or other securities as of the date such purchase right is granted. To the extent that any Other Stock-Based Awards granted by the Committee are subject to Code Section 409A as nonqualified deferred compensation, such Other Stock-Based Awards shall be subject to terms and conditions that comply with the requirements of Code Section 409A to avoid adverse tax consequences under Code Section 409A.

Section 10. *Minimum Vesting Provision*. All Awards granted hereunder shall be subject to a regular vesting period of at least one year following the date of grant (it being understood that accelerated vesting may apply upon specified Separations from Service or a Change in Control), except that (A) up to five percent of shares available for grant under the Plan and (B) the Assumed Spin-Off Awards and any Substitute Awards may be granted without regard to this requirement.

Section 11. *Effect Of Termination On Certain Awards.*

Except as otherwise provided by the Committee at the time an Option or Stock Appreciation Right is granted or in any amendment thereto, if a Participant ceases to be employed by, or serve as a non-employee director of, the Company or any Affiliate, then:

(a) if termination is for Cause, all Options and Stock Appreciation Rights held by the Participant shall be canceled as of the date of termination;

(b) if termination is voluntary or involuntary without Cause, the Participant may exercise each Option or Stock Appreciation Right held by the Participant within three months after such termination (but not after the expiration date of such Award) to the extent such Award was exercisable pursuant to its terms at the date of termination; *provided*, however, if the Participant should die within three months after such termination, each Option or Stock Appreciation Right held by the Participant may be exercised by the Participant's estate, or by any person who acquires the right to exercise by reason of the Participant's death, at any time within a period of one year after death (but not after the expiration date of the Award) to the extent such Award was exercisable pursuant to its terms at the date of termination;

(c) if termination is (i) by reason of Retirement (or alternatively, in the case of a non-employee director, at a time when the Participant has served for five full years or more and has attained the age of sixty), or (ii) by reason of a Disability, each Option or Stock Appreciation Right held by the Participant shall, at the date or Retirement or Disability, become exercisable to the extent of the total number of shares subject to the Option or Stock Appreciation Right, irrespective of the extent to which such Award would otherwise have been exercisable pursuant to the terms of the Award at the date of Retirement or Disability, and shall otherwise remain in full force and effect in accordance with its terms;

(d) if termination is by reason of the death of the Participant, each Option or Stock Appreciation Right held by the Participant may be exercised by the Participant's estate, or by any person who acquires the right to exercise such Award by reason of the Participant's death, to the extent of the total number of shares subject to the Award, irrespective of the extent to which such Award would have otherwise been exercisable pursuant to the terms of the Award at the date of death, and such Award shall otherwise remain in full force and effect in accordance with its terms.

Section 12. *General Provisions Applicable To Awards.*

(a) Awards shall be granted for no cash consideration or for such minimal cash consideration as may be required by applicable law.

(b) Awards may, in the discretion of the Committee, be granted either alone or in addition to or in tandem with any other Award. Awards granted in addition to or in tandem with other Awards may be granted either at the same time as or at a different time from the grant of such other Awards or awards.

(c) Subject to the terms of the Plan, payments or transfers to be made by the Company upon the grant, exercise or payment of an Award may be made in such form or forms as the Committee shall determine including, without limitation, cash, Shares, other securities, other Awards, or other property, or any combination thereof, and may be made in a single payment or transfer, in installments, or on a deferred basis, in each case in accordance with rules and procedures established by the Committee. Such rules and procedures may include, without limitation, provisions for the payment or crediting of reasonable interest on installment or deferred payments or the grant or crediting of dividend equivalents in respect of installment or deferred payments. Notwithstanding the foregoing, in no event shall the Company extend any loan to any Participant in connection with the exercise of an Award; provided, however, that nothing contained herein shall prohibit the Company from maintaining or establishing any broker-assisted cashless exercise program.

(d) Unless the Committee shall otherwise determine, no Award and no right under any Award shall be assignable, alienable, saleable or transferable by a Participant otherwise than by will or by the laws of descent and distribution. In no event may an Award be transferred by a Participant for value. Each Award, and each right under any Award, shall be exercisable during the Participant's lifetime only by the Participant or, if permissible under applicable law, by the Participant's guardian or legal representative. The provisions of this paragraph shall not apply to any Award which has been fully exercised, earned or paid, as the case may be, and shall not preclude forfeiture of an Award in accordance with the terms thereof.

(e) All certificates for Shares or other securities delivered under the Plan pursuant to any Award or the exercise thereof shall be subject to such stop transfer orders and other restrictions as the Committee may deem advisable under the Plan or the rules, regulations, and other requirements of the Securities and Exchange Commission, any stock exchange upon which such Shares or other securities are then listed, and any applicable Federal or state securities laws, and the Committee may cause a legend or legends to be put on any such certificates to make appropriate reference to such restrictions.

(f) *Assumed Spin-Off Awards*. Notwithstanding anything in this Plan to the contrary, each Assumed Spin-Off Award shall be subject to the terms and conditions of the equity compensation plan and award agreement to which such Award was subject immediately prior to the Spin-Off, subject to the adjustment of such Award by the Compensation Committee of Becton, Dickinson and Company pursuant to the terms of the Employee Matters Agreement, provided that following the date of the Spin-Off each such Award shall relate solely to Shares and be administered by the Committee in accordance with the administrative procedures in effect under this Plan.

(g) Notwithstanding any other provision of the Plan to the contrary, upon a Change in Control:

(i) All outstanding Awards shall become fully vested and exercisable, all performance targets applicable to such Awards, if any, shall be deemed to have been met at the greater of target and actual performance (as determined by the Committee as soon as practicable prior to the Change in Control), and any restrictions applicable to such Awards shall automatically lapse, except to the extent such Awards are (1) assumed by the successor corporation (or an affiliate thereof) or continued, or (2) replaced with an equity award (of the same type as the original Award hereunder, and in respect of publicly traded securities) that preserves the existing value of the Award at the time of the Change in Control on terms that are no less favorable to the Participant than those applicable to the Award (in each case in clauses (1) and (2), a "**Continuing Award**"), in which event such Continuing Awards shall remain outstanding and be governed by their respective terms, subject to the remaining provisions of this Section 12(g).Without limiting the generality of the foregoing, a qualifying Continuing Award may take the form of a continuation of the applicable Award if the requirements of the preceding sentence are satisfied.

(ii) In the event a Participant holding a Continuing Award is involuntarily terminated without Cause or such Participant terminates employment with the Company for Good Reason (as defined below) within the two-year period commencing on the Change in Control, then, as of the date of such termination, the Continuing Award shall become fully vested and exercisable, all performance targets applicable to the Award, if any, shall be deemed to have been met at the greater of target and actual performance (as determined by the Committee as soon as practicable following such termination), and any other restrictions applicable to any Award shall automatically lapse

(iii) For purposes of this Section 12(g), "Good Reason" means the occurrence (without the Participant's express written consent) of (A) a reduction in the Participant's base salary as in effect immediately prior to the Change in Control or as the same may be increased thereafter from time to time, or a reduction in the Participant's annual performance incentive award opportunity or equity-based compensation as in effect immediately prior to the Change in Control or as the same may be increased thereafter from time to time that is not in good faith and consistent with past practices, or (B) any change in the location of the Participant's principal place of employment as it existed immediately prior to the Change in Control to a location that is more than 25 miles from such principal place of employment. No event described above shall constitute Good Reason unless the Participant gives written notice to the Company of the existence of the event within 90 days after the initial occurrence of such event and the Company has not remedied such within 30 days of receipt of such notice. Notwithstanding the foregoing, if a Participant is a party to an employment, severance or change in control agreement, or covered by a Severance Plan, that includes a definition of "Good Reason," a "Good Reason" termination with respect to such Participant for purposes of this Plan shall be deemed to occur upon such a termination under such agreement or plan.

(iv) Notwithstanding anything in this Section 12(g) to the contrary, any Awards that are otherwise subject to Code Section 409A shall not be distributed or payable upon a Change in Control unless the Change in Control otherwise meets the requirements for a change in the ownership or effective control of the Company or in the ownership of a substantial portion of the assets of the Company within the meaning of Code Section 409A and the regulations and other guidance promulgated thereunder; instead such Awards shall be distributed or payable in accordance with the Award's applicable terms.

Section 13. *Amendments And Termination.*

(a) Except to the extent prohibited by applicable law and unless otherwise expressly provided in an Award Agreement or in the Plan, the Board may amend, alter, suspend, discontinue, or terminate the Plan or any portion thereof at any time; *provided, however*, that no such amendment, alteration, suspension, discontinuation or termination shall be made without (i) shareholder approval (A) if the effect thereof is to increase the number of Shares available for issuance under the Plan or to expand the class of persons eligible to participate in the Plan or (B) if such approval is necessary to comply with any tax or regulatory requirement for which or with which the Board deems it necessary or desirable to qualify or comply or (ii) the consent of the affected Participant, if such action would adversely affect the rights of such Participant under any outstanding Award. Notwithstanding anything to the contrary herein, the Committee may amend the Plan in such manner as may be necessary to enable the Plan to achieve its stated purposes in any jurisdiction outside the United States in a tax-efficient manner and in compliance with local rules and regulations. In all events, no termination or amendment shall be made in a manner that is inconsistent with the requirements under Code Section 409A to allow for tax deferral.

(b) The Committee may waive any conditions or rights under, amend any terms of, or amend, alter, suspend, discontinue or terminate, any Award theretofore granted, prospectively or retroactively, without the consent of any relevant Participant or holder or beneficiary of an Award; *provided, however*, that no such action shall impair the rights of any affected Participant or holder or beneficiary under any Award theretofore granted under the Plan; and *provided further* that, except as provided in Sections 5(e) and 5(f), no such action shall reduce the exercise price, grant price or purchase price of any Award established at the time of grant thereof. In no event shall an outstanding Option or Stock Appreciation Right for which the exercise price is less than the Fair Market Value of a Share be cancelled in exchange for cash or, except as provided in Sections 5(e) and 5(f), replaced with a new Option or Stock Appreciation Right with a lower exercise price, without approval of the Company's shareholders.

(c) The Committee shall be authorized to make adjustments in the terms and conditions of, and the criteria included in, Awards in recognition of events (including, without limitation, the events described in Sections 5(e) and 5(f)) affecting the Company, or the financial statements of the Company, or of changes in applicable laws, regulations or accounting principles, whenever the Committee determines that such adjustments are appropriate in order to prevent dilution or enlargement of the benefits or potential benefits intended to be made available under the Plan.

(d) The Committee may correct any defect, supply any omission, or reconcile any inconsistency in the Plan or any Award in the manner and to the extent it shall deem desirable to carry the Plan into effect or to otherwise comply with the requirements of Code Section 409A so as to avoid adverse tax consequences under Code Section 409A.

Section 14. *Miscellaneous.*

(a) No employee, Participant or other person shall have any claim to be granted any Award under the Plan, and there is no obligation for uniformity of treatment of employees, Participants, or holders or beneficiaries of Awards under the Plan. The terms and conditions of Awards need not be the same with respect to each recipient.

(b) The Committee may delegate to one or more officers or managers of the Company, or a committee of such officers or managers, the authority, subject to such terms and limitations as the Committee shall determine, to grant Awards to, or to cancel, modify, waive rights with respect to, alter, discontinue, suspend or terminate Awards held by, employees who are not officers or directors of the Company for purposes of Section 16 of the Securities Exchange Act of 1934, as amended; *provided, however*, that any delegation to management shall conform with the requirements of applicable law and with the requirements, if any, of the New York Stock Exchange, in either case as in effect from time to time.

(c) The Company shall be authorized to withhold from any Award granted or any payment due or transfer made under any Award or under the Plan or from any compensation or other amount owing to a Participant the amount (in cash, Shares, other securities, other Awards, or other property) of withholding taxes due in respect of an Award, its exercise, or any payment or transfer under such Award or under the Plan and to take such other action (including, without limitation, providing for elective payment of such amounts in cash, Shares, other securities, other Awards or other property by the Participant) as may be necessary in the opinion of the Company to satisfy all obligations for the payment of such taxes.

(d) Nothing contained in the Plan shall prevent the Company from adopting or continuing in effect other or additional compensation arrangements, and such arrangements may be either generally applicable or applicable only in specific cases.

(e) The grant of an Award shall not be construed as giving a Participant the right to be retained in the employ of the Company or any Affiliate. Further, the Company or the applicable Affiliate may at any time dismiss a Participant from employment, free from any liability, or any claim under the Plan, unless otherwise expressly provided in the Plan or in any Award Agreement or in any other agreement binding the parties. The receipt of any Award under the Plan is not intended to confer any rights on the receiving Participant except as set forth in such Award.

(f) If any provision of the Plan or any Award is or becomes or is deemed to be invalid, illegal, or unenforceable in any jurisdiction, or as to any person or Award, or would disqualify the Plan or any Award under any law deemed applicable by the Committee, such provision shall be construed or deemed amended to conform to applicable laws, or if it cannot be so construed or deemed amended without, in the determination of the Committee, materially altering the intent of the Plan or the Award, such provision shall be stricken as to such jurisdiction, person or Award, and the remainder of the Plan and any such Award shall remain in full force and effect.

(g) Neither the Plan nor any Award shall create or be construed to create a trust or separate fund of any kind or a fiduciary relationship between the Company and a Participant or any other person. To the extent that any person acquires a right to receive payments from the Company pursuant to an Award, such right shall be no greater than the right of any unsecured general creditor of the Company.

(h) No fractional Shares shall be issued or delivered pursuant to the Plan or any Award, and the Committee shall determine whether cash, other securities or other property shall be paid or transferred in lieu of any fractional Shares, or whether such fractional Shares or any rights thereto shall be canceled, terminated or otherwise eliminated.

(i) All Awards shall be subject to reduction, cancellation, forfeiture or recoupment to the extent necessary to comply with any clawback, forfeiture or other similar policy adopted by the Board or the Committee as in effect at the time of the applicable Award grant and applicable Laws. Further, to the extent that the Participant receives any amount in excess of the amount that the Participant should otherwise have received under the terms of the Award for any reason (including, without limitation, by reason of a financial restatement, mistake in calculations or other administrative error), the Participant shall be required to repay any such excess amount to the Company.

Section 15. *Effective Date Of Plan.*

Prior to the Spin-Off, this Plan was approved by the Board and by Becton, Dickinson and Company as the sole shareowner of the Company. The Plan shall be effective as of the date on which the Spin-Off occurs (the "**Effective Date**").

Section 16. *Term Of The Plan.*

No Award shall be granted under the Plan after the tenth anniversary of the Effective Date. However, unless otherwise expressly provided in the Plan or in an applicable Award Agreement, any Award theretofore granted may extend beyond such date, and the authority of the Committee to amend, alter, adjust, suspend, discontinue, or terminate any such Award, or to waive any conditions or rights under any such Award, and the authority of the Board to amend the Plan, shall extend beyond such date.

FRENCH SUB-PLAN
TO EMBECTA CORP. 2022 EMPLOYEE AND
DIRECTOR EQUITY-BASED
COMPENSATION PLAN

1. Introduction and Purpose

The Board of Directors (the "Board") of Embecta Corp. (the "Company") has established the Embecta Corp. 2022 Employee and Director Equity-Based Compensation Plan (the "Plan"), as approved by the Company's shareholders on April 1, 2022, for the benefit of certain employees of the Company and its Affiliates, including any Affiliate established under the laws of France, of which the Company holds directly or indirectly at least 10% of the outstanding share capital (each a "French Affiliate" and collectively, the "French Affiliates").

Section 4(b) of the Plan authorizes the Compensation and Benefits Committee of the Board (the "Committee") to adopt such rules and regulations (including a sub-plan) as the Committee deems necessary or appropriate to implement the Plan for purposes of the grant of awards to Participants outside of the United States.

The Committee has determined that it is advisable to establish specific rules for the purpose of permitting Restricted Stock Units (hereafter "RSUs") and Performance Units (hereafter "PSUs") granted to employees of a French Affiliate to qualify for the specific tax and social security treatment available for such grants in France. The Committee, therefore, intends to establish a sub-plan of the Plan (the "French Sub-Plan") for the purpose of granting RSUs and PSUs that qualify for the specific tax and social security treatment in France applicable to shares granted for no consideration under Sections L. 225-197-1 to L 225-197-5 and Sections L. 22-10-59 and L. 22-10-60 of the French Commercial Code, as amended, to qualifying employees of a French Affiliate who are residents in France for French income tax purposes and/or subject to the French social security regime (the "French Participants").

Under the French Sub-Plan, French Participants will be granted RSUs and PSUs only as defined in Section 2 hereunder. The provisions of the Plan permitting the grant of other types of awards shall not be applicable to grants made under the French Sub-Plan.

The terms and conditions of this French Sub-Plan modify the Plan as provided below as they relate to awards made under this French Sub-Plan. They are to be read in conjunction with the Plan and the applicable Award Agreement. In the event of any conflict between the terms and conditions of this French Sub-Plan and the Plan, the provisions of this French Sub-Plan shall prevail with respect to grants made hereunder. Capitalized terms used herein that are not otherwise defined shall have the same meaning as in the Plan.

2. Definitions

For purposes of this French Sub-Plan:

2.1. "Affiliate" means companies of which at least ten-percent (10%) of the equity or voting rights are held, directly or indirectly, by the Company.

2.2. "Closed Period" means the specific periods set forth by Section L. 22-10-59 of the French Commercial Code, as amended from time to time, during which the sale or transfer of Shares acquired at vesting of French-qualified RSUs cannot be sold or transferred, including: (i) the thirty (30) calendar day period before the announcement of an intermediate financial report or end-of-year report that the Company is required to make public; and (ii) with respect to such persons, any period during which the chief executive officer (*directeur général*), any deputy chief executive officer (*directeur général délégué*), or any member of the board of directors (*conseil d'administration*), the supervisory board (*conseil de surveillance*) or the executive board (*directoire*) of the Company, or any employee possesses knowledge of inside information (within the meaning of Article 7 of the Regulation (EU) No 596/2014 of the European Parliament and of the Council of April 16, 2014 on market abuse (Market Abuse Regulation) and cancelling the Directive 2003/6/UE and Directives 2003/124/CE Parliament and 2004/72/CE of the Commission) which has not been disclosed to the public. If, after adoption of the French Sub-Plan, French law or regulations are amended to modify the definition and/or applicability of Closed Periods to Awards granted under this French Sub-Plan, such amendments shall apply to any such Awards granted under this French Sub-Plan, to the extent permitted or required under French law.

2.3. "Performance Unit" means an Award defined in Section 2(u) of the Plan that is subject to a risk of forfeiture during the vesting period of the Award, as determined by the Committee. This Award may not be payable in cash pursuant to this French Sub-Plan.

2.4. "Restricted Stock Unit" means an Award defined in Section 2(x) of the Plan that is subject to a risk of forfeiture during the vesting period of the Award, as determined by the Committee.

3. Eligibility

3.1. Notwithstanding anything in the Plan to the contrary, individuals who are eligible to be granted Awards under this French Sub-Plan shall consist exclusively of employees with a valid employment contract ("contrat de travail") at grant with, and/or who are corporate officers (with or without an employment contract), such as listed below, of, the Company or a "French Affiliate:

- "Président du Conseil d'Administration" (Chairman of the Board);
- "Directeur Général" (Managing Director);
- "Directeurs Généraux Délégués" (Delegated Managing Directors);
- Members of the "Directoire" (Executive Directors);

- "Gérant" of a "Société par Actions" ("Manager of a Joint Stock Company");
- "Président" (if a private individual) d'une Société par Actions Simplifiée".

For the avoidance of doubt, officers and directors of the Company, or of a French Affiliate(s), are eligible to be granted Awards under this French Sub-Plan if they have a valid employment contract with one of these entities, or if they are one of the corporate officers listed above. No Award can be granted under this French Sub-Plan to non-employee members of the "Conseil d'Administration" (the board of directors) of a French Affiliate, or any consultants and advisors.

3.2. In addition, an Award may not be made under this French Sub-Plan to employees and/or corporate officers holding more that 10% of the issued share capital in the Company or who, after having received Shares under an Award granted hereunder, would hold more than 10% of the issued share capital in the Company.

3.3. Participants with an Award not granted under this French Sub-Plan (either prior to or after the date of this French Sub-Plan) may also be covered by this French Sub-Plan, provided that the Committee amends the terms of such Award to comply with the terms of this French Sub-Plan prior to the vesting of the Award. In this case, an amended Award Agreement will be sent to the Participants within three (3) months following such amendment.

4. Administration

No modification can be made to this French Sub-Plan that would adversely affect the rights of a French Participant, or which is in contradiction to the French Commercial Code and French Tax Code provisions, without the consent of the French Participant, unless the modification is the result of a new law or regulation or any other legal obligation applicable to the Company or any French Affiliate.

The terms of this French Sub-Plan shall be interpreted by the Committee in accordance with the relevant provisions set forth by French tax and social laws, as well as the regulations issued by the French tax and social administrations.

5. Shares available for Awards

5.1. Notwithstanding the provisions of the Plan to the contrary, the total number of Shares that may be granted to French Participants under this French Sub-Plan shall not exceed 10% of the Company's share capital at grant. Outstanding unvested Awards issued under the Plan shall be treated as outstanding Shares in order to determine the threshold of 10% of the Company's share capital.

5.2. Awards under this French Sub-Plan will be settled only by delivery of Shares to the French Participants. Shares of the Company to be delivered under this French Sub-Plan may be treasury shares or newly issued shares.

For Awards to be settled by the issuance of treasury shares, the shares shall have been repurchased by the Company at least one day before the applicable Vesting Date.

Shares acquired by the French Participant as a result of the vesting of the Award issued under this French Sub-Plan shall be maintained in an account in the name of the French Participant with the Company, a broker or in such other manner as the Company may otherwise determine to ensure compliance with applicable law. A French Participant shall have the voting and dividends rights with respect to the Shares as of the date the Participant becomes the owner of such Shares.

5.3. In connection with any adjustment under Sections 5(e) and 5(f) of the Plan, the Committee shall take all the necessary steps to determine the impact of such adjustment on the income tax and social security treatment of Awards made to French Participants under this French Sub-Plan and whenever possible, to maintain the tax and social security treatment of the Awards; provided, that nothing herein shall prevent the Committee from making any such adjustment. The Committee shall inform such Participants of any such adjustment.

6. Restricted Stock Units

6.1. With respect to RSUs granted to French Participants in France under this French Sub-Plan, the vesting schedule determined by the Committee, as mentioned in the Award Agreement, is applicable to the Awards governed by this French Sub-Plan. Unless the Committee decides otherwise, such vesting period shall be not less than two (2) years de *minimis*, as defined in Section L.225-197-1 of the French Commercial Code.

6.2. In the event the vesting schedule or an accelerated vesting of an RSU would result in the vesting of the Award (in whole or in part) after the first anniversary of the grant date (the "Minimum Vesting Period"), but prior to the second anniversary of the grant date, a mandatory Share Sale Restriction Period (as defined below) of a minimum one (1) year shall apply to the Shares received upon vesting, as described below. The applicability of the Share Sale Restriction Period will be indicated in the Award Agreement.

6.3. Notwithstanding any provisions of the Plan to the contrary, unless an Award of RSUs (i) vests after the second anniversary of the grant date or (ii) vests after the Minimum Vesting Period (except in case of a French Participant death or disability of second (2nd) or third (3rd) category as defined as per Section L.341-4 of the French Social Security Code) and the Shares distributed upon vesting are subject to the Share Sale Restriction Period provided by the French Commercial Code and the Award Agreement, the Award shall be considered as non-qualified for French income tax and social security purposes.

6.4.

(i) If an Award granted under this French Sub-Plan vests, in whole or in part, as determined in the Award Agreement, after the Minimum Vesting Period but prior to the second anniversary of the grant date, Shares acquired pursuant to the Award shall be subject to a minimum of one (1) year Share Sale Restriction starting from the vesting date (the "Share Sale Restriction Period"), during which the Shares may not be sold other than in the circumstances set out in paragraph (iii) below. If the Participant ceases employment with the Company, or any Affiliate, at any time after such vesting, the Shares acquired shall nonetheless not be freely transferable before the expiration of the Share Sale Restriction Period.

(ii) At the end of the above Share Sale Restriction Period (if applicable) or at the end of the Vesting Period (if no Share Sale Restriction Period is applicable), the Shares shall not be sold if doing so would violate any rule that prohibits trading while aware of material non-public information of the Securities and Exchange Commission (SEC) or the "*Autorité des Marchés Financiers*" (AMF), or any relevant securities law.

(iii) Notwithstanding any provision of the Plan to the contrary, in the event of the French Participant's death during the Share Sale Restriction Period, the person or persons to whom the Shares are transferred by will or in accordance with the laws of descent and distribution shall not be subject to the Share Sale Restriction Period, the Shares being freely transferable upon the French Participant's death.

(iv) If the French Participant ceases employment with the Company or any French Affiliate(s) due to Disability within the 2nd and 3rd categories as defined as per Section L.341-4 of the French Social Security Code during the Share Sale Restriction Period, the Share Sale Restriction Period shall be accelerated and deemed to have lapsed. Such provisions shall not constitute a disqualified event for French income tax and social security.

7. Performance Units

7.1. Notwithstanding any provisions of the Plan and this French Sub-Plan to the contrary, in case of the French Participant's death, an Award of Performance Units granted under this French Sub-Plan shall vest in full, and the person or persons to whom the Shares are transferred by will or in accordance with the laws of descent and distribution shall be entitled to request the Shares underlying the Performance Units within six (6) months following such death.

7.2. Notwithstanding any provisions to the contrary, in the event of an accelerated vesting provided by the Plan (except in case of a French Participant's death or Disability), Awards that do not comply with the Minimum Vesting Period and Share Sale Restriction Period (if applicable) provided by the French Commercial Code and the Award Agreement shall be considered as non-qualified for French income tax and social security purposes.

7.3. Notwithstanding any provision of the Plan to the contrary, the Shares received upon vesting of an Award of Performance Units shall not be sold if doing so would violate any rule that prohibits trading while aware of material non-public information of the Securities and Exchange Commission (SEC) or the "*Autorité des Marchés Financiers*" (AMF), or any relevant securities law.

8. General Provisions Applicable to Awards

8.1. Any Shares acquired pursuant to RSUs and Performance Units granted under this French Sub-Plan may not be sold or otherwise transferred during a Closed Period.

8.2. RSUs and Performance Units granted under this French Sub-Plan are granted for no cash consideration.

8.3. A French Participant granted an RSU or Performance Unit Award under this French Sub-Plan shall have no shareholder rights, including the right to vote or to receive dividends, until such Award is duly vested and the legal ownership of shares is transferred to the Participant.

8.4. Upon occurrence of a Change of Control, the provisions of the Plan and the applicable Award Agreement shall apply to French Participants. In such event, the Committee, in its discretion, may authorize the acceleration of the vesting date of an Award granted hereunder and/or the cancellation of the Share Sale Restriction Period. However, when a tax favorable treatment may be available further to French legislation, the Committee, in its discretion, may give the choice to French Participants.

In the event the Company exchange Shares for other securities (but for no cash consideration) pursuant to applicable French legal and tax rules, then the provisions of the Plan as well as the periods of vesting and Share Sale Restriction (if applicable) will remain applicable to shares or rights received in exchange.

9. Miscellaneous

9.1. Notwithstanding any provision of the Plan or this French Sub-Plan to the contrary, no Shares issued pursuant to an Award granted under this French Sub-Plan may be sold prior to the lapse of the Share Sale Restriction Period to satisfy any social security or tax withholding due for such Awards.

The Company or its Affiliates shall have the right to require payment from a Participant to cover any applicable withholding or other employment taxes due with respect to Awards granted hereunder or shall have the right to deduct any applicable withholding or other employment taxes due from other compensation income paid to the French Participant.

The French Affiliate that employs the French Participant is responsible for withholding employees' social security charges in the event that they are due. However, the French Participants remain responsible for bearing the costs of employees' social security charges.

9.2. The adoption of this French Sub-Plan shall not confer upon any French Participants or any other employee of a French Affiliate, any employment rights and shall not be construed as a part of any employment contracts that a French Affiliate has with its employees or create any employment relationship with the Company.

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EMBECTA CORP.

EXECUTIVE SEVERANCE AND CHANGE IN CONTROL PLAN

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EMBECTA CORP.

EXECUTIVE SEVERANCE AND CHANGE IN CONTROL PLAN

1. Establishment and Purpose of Plan

1.1 Establishment. Embecta Corp., a Delaware corporation ("***Embecta***" or the "***Company***"), has adopted this Embecta Corp. Executive Severance and Change in Control Plan (as amended from time to time, the "***Plan***"), effective as of April 1, 2022 (the "***Effective Date***").

1.2 Purpose. The purpose of the Plan is to provide eligible key employees of the Company and certain subsidiaries of the Company who experience a Qualifying Termination (defined below) with severance benefits in accordance with the terms and conditions set forth below. The Company believes that it is in the best interests of the Company's shareholders to provide financial assistance through severance payments and other benefits to eligible key employees who experience a Qualifying Termination as specified herein. With respect to each Participant (defined below), the Plan supersedes all plans, agreements, or other arrangements for severance benefits or for enhanced severance payments whether or not before, on or after a Change in Control. To the extent the Plan provides deferred compensation it is an unfunded plan primarily for the purposes of providing deferred compensation to a select group of management or highly compensated employees as described in Sections 201, 301 and 401 of ERISA. The Company reserves the right to amend, modify or terminate the Plan at any time for any reason, subject to the limitations set forth herein.

2. Definitions and Construction

2.1 Definitions. Whenever used in the Plan, the following terms shall have the meanings set forth below:

(a) "***Accrued Obligations***" means the following:

i. any earned but unpaid Base Salary (defined below) through the Participant's Termination Date (defined below), plus any accrued and unused paid time off ("***PTO***") due to the Participant under the Company's PTO program through the Participant's Termination Date, which amounts shall be paid to the Participant not later than the payment date for the payroll period next following the Participant's Termination Date;

ii. reimbursements for any properly reimbursable business expenses to which the Participant is entitled pursuant to any applicable established reimbursement policies, *provided* that the Participant applies for such reimbursements in accordance with the terms and procedures set forth in the applicable established reimbursement policies, and within the period required by such procedures (but under no circumstances later than ninety (90) days after the Participant's Termination Date); and

iii. any other amounts or benefits required to be paid or provided or that Participant is eligible to receive under any plan, program, policy or practice or contract or agreement of the Company and its Affiliates (such other amounts and benefits shall be hereinafter referred to as the "***Other Benefits***") in accordance with the terms of the underlying plans or agreements.

(b) "***Annualized Bonus***" means the greater of (i) a Participant's annual Bonus (defined below) for the most recently completed Fiscal Year for which annual bonuses have been determined or (ii) a Participant's average annual Bonus for the two most recently completed Fiscal Years for which annual Bonuses have been determined. In the event that the Annualized Bonus cannot be determined for a Participant under (i) or (ii) above, "Annualized Bonus" with respect to such Participant means the Target Annual Bonus (defined below).

(c) "***Base Salary***" means the annual base salary in effect immediately prior to the Participant's Termination Date (without giving effect to any reduction forming the basis for a termination for Good Reason). For the avoidance of doubt, Base Salary does not include any bonuses, commissions, fringe benefits, car allowances, or other special or irregular payments.

(d) "***Board***" means the Board of Directors of the Company.

(e) "***Bonus***" means any annual cash bonus payable under any bonus plan, short term incentive compensation plan or other like benefit plan of a Group Company in which the Participant participates, whether or not awards thereunder are discretionary, including without limitation, the Company's Annual Incentive Plan as in effect from time to time.

(f) "***Cause***" means any one of the following (other than during a Change in Control Coverage Period, as determined by the Committee in its sole discretion):

i. the Participant's act of fraud, embezzlement, theft or other intentional material violation of the law in connection with or in the course of his or her employment;

ii. indictment or conviction of the Participant for a felony or crime of moral turpitude in connection with or in the course of his or her employment;

iii. the Participant's willful or gross misconduct that is likely to materially injure the reputation, business or a business relationship of any Group Company;

iv. the Participant's willful material violation or breach of any confidentiality, non-competition or non-solicitation obligation (contractual or otherwise) to a Group Company;

v. the Participant's continued and willful failure or refusal (other than as a result of incapacity due to mental or physical impairment) to perform his or her material duties of employment or to adhere to any written policies of the Company;

vi. the Participant's sexual harassment of an employee or other third party that has been reasonably substantiated through an investigation in accordance with the Company's standard human resources policy; or

vii. other than in connection with or in the course of his or her employment, the Participant's willful conduct that endangers or compromises the health or safety of another employee or creates a hostile work environment.

For purposes of this definition of "Cause," no act, or failure to act, on the part of the Participant will be deemed "willful" if it was done or omitted to be done by the Participant in good faith or with a reasonable belief that the act or omission was not opposed to the best interests of the Company Group.

If (A) a Group Company has terminated a Participant without Cause or a Participant has resigned for Good Reason and, within six months after the Termination Date, matters constituting Cause become known to a Group Company, or (B) if a Participant resigns for Good Reason after a Group Company learns of matters constituting Cause but before the Group Company is able to effectuate a termination for Cause, the Committee may in any such case, by written notice to a Participant, treat such termination as being for Cause; except that this provision shall not apply following a Change in Control.

(g) "***Change in Control***" shall have the meaning set forth in the Equity Plan.

(h) "***Change in Control Coverage Period***" means the period commencing with, and ending 24 months following, the date of a Change in Control. Notwithstanding anything in this Agreement to the contrary, if (i) a Participant experiences a Termination of Employment by the Company without Cause, (ii) the Termination Date of such Participant's Termination of Employment is prior to the date on which a Change in Control occurs, and (iii) it is reasonably demonstrated by such Participant that such Termination of Employment (x) was at the request of a third party that has taken steps reasonably calculated to effect a Change in Control or (y) otherwise directly arose in connection with or anticipation of a Change in Control, then, solely with respect to such Participant, the "Change in Control Coverage Period" shall mean the period commencing immediately prior to such Termination Date and ending on the date of the Change in Control.

(i) "***Claim***" shall have the meaning set forth in Section 7.1(a) below.

(j) "***Claimant***" shall have the meaning set forth in Section 7.1(a) below.

(k) "***Claims Administrator***" shall have the meaning set forth in Section 6.1(d) below.

(l) "***COBRA***" means the continuation coverage provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended.

(m) "***Code***" means the Internal Revenue Code of 1986, as amended, or any successor thereto and any applicable regulations promulgated thereunder.

(n) "***Committee***" means the Compensation Committee of the Board.

(o) "***Company***" means Embecta Corp., a Delaware corporation, or any successor thereto.

(p) "***Company Group***" means the group consisting, from time to time, of the Company and each direct and indirect Subsidiary of the Company.

(q) "***Delay Period***" shall have the meaning set forth in Section 9.1(b) below.

(r) "***Director***" means a member of the Board.

(s) "***Disability***" means the Participant's disability within the meaning of the applicable long-term disability plan in effect immediately prior to the Termination Date.

(t) "***Eligible Employee***" means an employee of any Group Company who is designated by the Company as within one of the employee classification levels specified on Schedule A. If there is any question as to whether an Employee is deemed an Eligible Employee for purposes of the Plan, the Committee shall make the determination.

(u) "***Employee***" means an individual who is classified as an employee on the U.S. payroll of any Group Company, other than any individual scheduled to work fewer than 30 hours per week or any individual classified as a "foreign employee," meaning an employee based or employed in a country that is not the United States or paid from a non-U.S. payroll (including an employee based in the Commonwealth of Puerto Rico or paid from a payroll in the Commonwealth of Puerto Rico).

(v) "***Equity Plan***" means the Embecta 2022 Employee and Director Equity-Based Compensation Plan, as it may be amended from time to time, or any successor thereto.

(w) "***ERISA***" means the Employee Retirement Income Security Act of 1974, as amended, or any successor thereto and any applicable regulations promulgated thereunder.

(x) "***Excise Tax***" shall have the meaning set forth in Section 9.2(a) below.

(y) "***Existing Restrictive Covenant Agreement***" shall have the meaning set forth in Section 5 below.

(z) "***Fiscal Year***" means the fiscal year of the Company.

(aa) "***Good Reason***" means any of the following events without the Participant's express written consent (provided that for Participants other than the CEO and the CEO's SVP direct reports, solely during a Change in Control Coverage Period):

i. a material reduction (other than during a period of the Participant's mental or physical impairment) in the Participant's authority, duties, or responsibilities or the assignment to the Participant of duties on a continuous or regular basis that are materially inconsistent with the duties of the Participant prior to such reduction (or, for Participants other than the CEO and the CEO's SVP direct reports, prior to the Participant's Change in Control Coverage Period);

ii. a reduction in the Participant's base compensation or a material reduction in the Participant's annual compensation opportunity or long-term incentive compensation opportunity;

iii. a change in the primary location at which the Participant is required to perform the duties of his or her employment to a location that is more than 30 miles from the location at which his or her office is located prior to such change (or, for Participants other than the CEO and the CEO's SVP direct reports, prior to the Participant's Change in Control Coverage Period), *provided* that such change in primary location results in a material increase (i.e., at least 30 minutes) in the Participant's one-way commuting time;

iv. a material breach by the Company of an employment agreement or contract (including a letter agreement) with the Participant; or

v. the failure of a successor entity to assume the obligations under this Plan or to provide the Participant with a plan providing substantially similar or better severance benefits;

provided, *however*, in all cases, that the Participant who is asserting that an event constituting Good Reason has occurred has provided the Company with written notice of the circumstances giving rise to the Good Reason event (a "***Good Reason Notice***"), in accordance with the procedures set forth in Section 8 below, within 60 days after the initial existence of such circumstances. An event constituting Good Reason shall no longer constitute Good Reason if the circumstances described in the Good Reason Notice are cured (and notice of such cure is provided to the Participant) by the Company Group within 30 days following its receipt of the Good Reason Notice. If the Company Group does not cure the circumstances giving rise to the Good Reason event described in the Good Reason Notice within 30 days after receipt of the Good Reason Notice, the Participant who provided the Good Reason Notice may resign for Good Reason only by terminating employment within 30 days following the end of the Company Group's 30-day cure period.

(bb) "***Group Company***" means the Company or any other company within the Company Group.

(cc) "***Health and Welfare Severance Benefit***" shall have the meaning set forth in Section 3.1(e) below.

(dd) "***Participant***" means any individual who is an Eligible Employee selected by the Committee to participate in the Plan and who executes and returns to the Company a Participation Agreement (defined below).

(ee) "***Participation Agreement***" means an Agreement to Participate in the Plan, in substantially the form attached hereto as Exhibit A, or in such other form as the Committee may approve from time to time.

(ff) "***Prior Year Bonus Payment***" shall have the meaning set forth in Section 3.1(c) below.

(gg) "***Pro-Rata Bonus Payment***" shall have the meaning set forth in Section 3.1(d) below.

(hh) "***Qualifying Termination***" means the occurrence of either of the following events:

i. the involuntary termination without Cause of a Participant's employment with a Group Company that employs the Participant; or

ii. such Participant's resignation from such employment with the Company for Good Reason (which, for Participants other than the CEO and the CEO's SVP direct reports, can only occur during a Change in Control Coverage Period);

provided, *however*, that a Qualifying Termination shall not include any termination of a Participant's employment which is (A) for Cause, (B) a result of a Participant's death or Disability, (C) a result of a Participant's resignation other than for Good Reason, or (D) a Participant's termination following his or her failure to accept a continued employment at a comparable position (as determined by the Committee in its sole discretion) in connection with any sale, divestiture or outsourcing of the company or business unit in which he or she had been employed prior to his or her termination.

(ii) "***Separation and Release Agreement***" means an agreement between the Participant and the Company in a form that is reasonably acceptable to the Company (which shall be provided to the applicable Participant by the Company as soon as practicable following the Termination Date) that includes a full general release by the Participant in favor of the Company Group and any of its affiliates, stockholders, Directors, officers, employees, agents, insurers, predecessors, successors and/or assigns, and other related parties (including, without limitation, fiduciaries of employee benefit plans) releasing all claims, known or unknown (the "***Release***"), which at the Company's discretion, and to the extent permitted by applicable law, may include, among other things, certain restrictive covenants applicable to the Participant, including confidentiality, non-solicitation and non-competition provisions, provided that with respect to a Qualifying Termination during a Change in Control Coverage, the Separation and Release Agreement shall impose no covenants on the applicable Participant other than the Release, and the Release shall be in a form not less favorable to the Participant than the Company's standard form of Release in effect prior to the applicable Change in Control.

(jj) "***Section 409A***" means Section 409A of the Code and any applicable regulations (including proposed or temporary regulations) and other administrative guidance promulgated thereunder.

(kk) "***Section 409A Change in Control***" shall have the meaning set forth in Section 9.1(f) below.

(ll) "***Severance Conditions***" means that (i) solely outside of a Change in Control Coverage Period, the Participant continues to comply with any restrictive covenants applicable to the Participant by Company policy or by specific written agreement and (ii) no later than the 60th day following the applicable Termination Date, the Participant has delivered to the Company an executed Separation and Release Agreement and such Separation and Release Agreement has become effective, enforceable and irrevocable in accordance with its terms.

(mm) "***Severance Payments***" shall have the meaning set forth in Section 3.1(a) below.

(nn) "***Specified Employee***" means a specified employee within the meaning of that term under Section 409A(a)(2)(B)(i) of the Code.

(oo) "***Subsidiary***," with respect to the Company, means any entity in which the Company owns or otherwise controls, directly or indirectly, stock or other ownership interests having the voting power to elect a majority of the board of directors, or other governing group having functions similar to a board of directors, as determined by the Committee.

(pp) "***Target Annual Bonus***" means the Participant's target annual cash bonus opportunity, determined based on the target percentage ascribed to the Participant, as in effect immediately prior to any termination of employment (without giving effect to any reduction forming the basis, in whole or in part, for a termination for Good Reason).

(qq) "***Termination Date***" means the effective date of the Participant's Termination of Employment.

(rr) "***Termination of Employment***" means, in respect of a Participant, a termination of employment with the Company Group as determined by the Committee; *provided*, *however*, that with respect to payment of deferred compensation subject to Section 409A, "Termination of Employment" means "separation from service" within the meaning of Section 409A.

2.2 Construction. Captions and titles contained herein are for convenience only and shall not affect the meaning or interpretation of any provision of the Plan. Except when otherwise indicated by the context, the singular shall include the plural and the plural shall include the singular. Use of the term "or" is not intended to be exclusive, unless the context clearly requires otherwise.

3. <u>Severance Benefits For Qualifying Terminations</u>

3.1 Benefits for a Qualifying Termination Outside of a Change in Control Coverage Period. If a Participant experiences a Qualifying Termination at any time other than during a Change in Control Coverage Period, such Participant shall receive any Accrued Obligations to which he or she is entitled, and subject to satisfaction of, and compliance with, the Severance Conditions, such Participant shall also be eligible to receive the following benefits set forth in Sections 3.1(a) through (f) below, less applicable taxes, withholdings and deductions.

(a) The Severance Payments. The Participant shall be paid an amount determined in accordance with the chart set forth on Schedule A (the "***Severance Payment***"). The Severance Payment shall be paid in equal installments in accordance with the Company's then current payroll practices and shall, subject to Section 9.1, begin as soon as practicable following the Termination Date, provided that the first such payment date shall not be less than five days following the date that the Participant's Separation and Release Agreement has become effective and irrevocable. Any severance payments that are delayed as a result of the execution of the Separation and Release Agreement will be paid as part of the first installment of the Severance Payment.

(b) Prior Year Bonus Payment. If a Participant's Termination Date is after the end of the immediately preceding annual Bonus period (i.e., after the end of the last Fiscal Year) but before the Bonus for that year has been paid to the Participant, the Participant shall be paid an annual cash Bonus for the completed bonus year immediately preceding the Participant's Termination Date (the "***Prior Year Bonus Payment***") in the amount determined under the terms of the applicable Bonus plan notwithstanding any provision of the Bonus plan that requires continued employment after the end of the immediately preceding annual Bonus period but subject to all other provisions of the Bonus plan. To the extent that a Participant is entitled to receive the Prior Year Bonus Payment for any Fiscal Year under this Section 3.1(b), such Participant shall not also be entitled to any Bonus payment for such Fiscal Year under the terms of the applicable Bonus plan. Amounts payable under this Section 3.1(b) will be deemed payments attributable to the Participant's employment prior to or on the Termination Date and not as severance. The Prior Year Bonus Payment shall be paid in a lump sum to the Participant in accordance with the timing of the payments of bonus payments to other executives for the same bonus year.

(c) Pro-Rata Bonus Payment. The Participant shall be paid a pro-rata portion of the annual cash Bonus for the Fiscal Year in which the Termination Date occurs based on achievement of target performance for such year (determined by multiplying the amount of the Target Annual Bonus for the full Fiscal Year by a fraction, the numerator of which is the number of months during the Fiscal Year in which the Termination Date occurs that the Participant had been employed by the Company Group, and the denominator of which is 12) (the "***Pro-Rata Bonus Payment***") notwithstanding any provision of the Bonus plan that requires continued employment through the end of the annual Bonus period or beyond but subject to all other provisions of the Bonus plan. For purposes of such calculation, if the Termination Date is on or before the 15th day of the month, the Participant will get credit for one-half month; and if the Termination Date is after the 15th day of the month, the Participant will get credit for the full month. To the extent that a Participant is entitled to receive the Pro-Rata Bonus Payment for any Fiscal Year under this Section 3.1(c), such Participant shall not also be entitled to any Bonus payment for such Fiscal Year under the terms of the applicable Bonus plan. Amounts payable under this Section 3.1(c) will be deemed payments attributable to the Participant's employment prior to or on the Termination Date and not as severance. The Pro-Rata Bonus Payment shall be paid in a lump sum to the Participant in accordance with the timing of the payments of bonus payments to other executives for the same bonus year.

(d) Health and Welfare Severance Benefit. The Company shall pay the Participant an amount equal to the excess of (i) the monthly cost of COBRA coverage for the Participant's elected coverage under the Company Group's group health plan (including medical and dental coverages) as in effect on the day prior to the Participant's Termination Date over (ii) the portion of such cost that would be paid by an active employee based on the rate in effect on such day, for the period specified in Schedule A (the "***Health and Welfare Severance Benefit***").

The Health and Welfare Severance Benefit shall, subject to Section 9.1, be paid in a lump sum to the Participant as soon as administratively practicable following the date the Participant's Separation and Release Agreement has become effective and irrevocable. The Health and Welfare Severance Benefit described above will be paid regardless of whether or not the Participant and/or the Participant's enrolled spouse and/or dependents elect to continue their group health plan coverage pursuant to COBRA or otherwise. Any such election will be the sole responsibility of the Participant and/or his or her spouse and/or dependents.

(e) Outplacement Services. During the 12-month period following a Participant's Termination Date, the Participant will be entitled, at the Company's cost, to outplacement services provided by a firm selected by the Company. A Participant entitled to outplacement services hereunder must notify the Company of his or her desire to utilize such services within 20 days following his or her Termination Date.

(f) Treatment of Outstanding Equity Awards. Subject to the terms of the Equity Plan and Section 409A, the Committee may in its discretion accelerate the vesting of, or waive or modify performance requirements of, any equity awards granted under the Equity Plan in the event of a termination of the Participant's employment for any reason other than Cause.

3.2 Benefits for a Qualifying Termination During a Change in Control Coverage Period. If a Participant experiences a Qualifying Termination at any time during a Change in Control Coverage Period, such Participant shall receive any Accrued Obligations to which he or she is entitled, and subject to satisfaction of, and compliance with, the Severance Conditions, such Participant shall be eligible to receive the benefits set forth in Sections 3.2(a) through (f) below (but none of the benefits under Section 3.1 above), less applicable taxes, withholdings and deductions. If a Participant has received any benefits under Section 3.1 and then subsequently becomes entitled to benefits under this Section 3.2, then the benefits payable under Section 3.2 shall be offset by the amount of benefits previously received by the Participant under Section 3.1 (and thereupon the Participant will no longer be entitled to receive any additional benefits under Section 3.1). Subject to potential delay or reduction pursuant to the terms of Sections 9.1 or 9.2 below, all cash payments to which a Participant is entitled to receive under Section 3.2 shall be made in a single lump sum as soon as administratively practicable following the Termination Date, provided that the first such payment date shall not be less than five days following the date that the Participant's Separation and Release Agreement has become effective and irrevocable.

(a) The CIC Severance Payment. The Participant shall be paid a lump sum amount to be determined in accordance with the chart set forth on Schedule A; provided that in the event of a Qualifying Termination during a Change in Control Coverage Period that occurs prior to the applicable Change in Control or with respect to which the applicable Change in Control is not a "a change in the ownership or effective control of the corporation, or in the ownership of a substantial portion of the assets of the corporation" within the meaning of Section 409A(a)(2)(A)(v) of the Code, a portion of the Severance Payment equal to the amount that would have been due under a Qualifying Termination governed by Section 3.1(a) of this Plan shall be paid on the schedule contemplated by Section 3.1(a).

(b) Prior Year Bonus Payment. The Participant shall be paid the Prior Year Bonus Payment, as defined in Section 3.1(b) above, in a lump sum and in accordance with the terms and conditions set forth in Section 3.1(b) above.

(c) Pro-Rata Bonus Payment. The Participant shall be paid the Pro-Rata Bonus Payment as defined in Section 3.1(c) above, in a lump sum and in accordance with the terms and conditions set forth in Section 3.1(c) above.

(d) CIC Continuation Benefit. The Company shall pay the Participant a lump sum amount calculated in the same manner as the Health and Welfare Severance Benefit described in Section 3.1(e) above, and in accordance with the terms and conditions set forth in Section 3.1(d) above; provided, however, that under this Section 3.2(d) the relevant period shall be the period specified in Schedule A.

(e) Outplacement Services. During the 12-month period following a Participant's Termination Date, the Participant will be entitled, at the Company's cost, to outplacement services provided by a firm selected by the Company. A Participant entitled to outplacement services hereunder must notify the Company of his or her desire to utilize such services within twenty (20) days following his or her Termination Date.

(f) Treatment of Outstanding Equity Awards. Subject to Section 409A (if applicable) regarding the time of payment of an award under the Equity Plan, (i) any and all non-performance-based awards and performance-based awards granted under the Equity Plan will become fully vested as of the Termination Date and (ii) in the case of performance-based awards, such full vesting will occur on the basis that performance had been achieved at the "target" level specified in the award except where a higher level would be deemed achieved under the terms of the applicable award agreement.

3.3 Other Terminations. If a Participant's termination of employment results from any reason other than a Qualifying Termination, such Participant shall be eligible only to receive his or her Accrued Obligations.

4. No Contract of Employment

Neither the establishment of the Plan, nor any amendment thereto, nor the payment or provision of any benefits pursuant to the Plan shall be construed as giving any person the right to be employed by any member of the Company Group. The employment relationship between each Participant and any member of the Company Group is an "at-will" relationship. Accordingly, either the Participant or any member of the Company Group that employs the Participant may terminate the relationship at any time. Effective upon a Participant's Termination of Employment for any reason, the Participant shall hold no further office, directorship or other position with the Company Group and will be deemed to have resigned from any and all such positions.

5. Conflict in Benefits; Noncumulation of Benefits

The terms of the Plan, when accepted by a Participant pursuant to an executed Participation Agreement, shall supersede all prior agreements and arrangements, whether written or oral, and understandings regarding the subject matter of the Plan (including, but not limited to any severance provisions under any employment agreement entered into prior to the effective date of his or her Participation Agreement), and shall be the exclusive terms for the determination of any severance payments and benefits due to such Participant. To the extent that a Participant accepts payments made pursuant to the Plan, such Participant shall be deemed to have waived his or her right to receive a corresponding amount of future severance payments or other severance benefits under any other plan or agreement of the Company Group. Payments and benefits provided under the Plan shall be in lieu of any termination or severance payments or benefits for which the Participant may be eligible under any of the plans or policy of the Company Group or under the Worker Adjustment Retraining Notification Act of 1988 or any similar statute or regulation. The foregoing notwithstanding, the terms of the Plan do not supersede or take priority over the terms or conditions of any agreement between a Participant and a Group Company relating to maintaining the confidentiality of information, the assignment of inventions, non-competition, and/or nonsolicitation of Company Group employees, or any other agreements containing restrictive covenants intended to protect the business and goodwill of the Company Group (any such agreements, collectively, the "***Existing Restrictive Covenant Agreements***"). This Plan and any Existing Restrictive Covenant Agreement shall be treated and interpreted as complementary, and in the event of any conflict between certain provision(s) in the Plan and certain provision(s) in an Existing Restrictive Covenant Agreement, the provision(s) of the document which is regarded as most beneficial to the Company's interests, as determined in the Committee's sole discretion, is the provision(s) that shall be applicable and applied.

6. Administration, Termination, and Amendment of Plan

6.1 Administration. The Committee shall act as the plan administrator of the Plan. The Committee has the sole discretion and authority to administer the Plan, including the sole discretion and authority to:

(a) adopt such rules as it deems advisable in connection with the administration of the Plan, and to construe, interpret, apply and enforce the Plan and any such rules and to remedy ambiguities, errors or omissions in the Plan;

(b) determine questions of eligibility and entitlement to benefits and interpret the terms and provisions of the Plan;

(c) act under the Plan on a case-by-case basis; the Committee's decisions under the Plan need not be uniform with respect to similarly situated Participants; and

(d) delegate its authority under the Plan to any Director, officer, employee, or group of Directors, officers and/or employees of the Company; *provided* that if any person with administrative authority becomes eligible or makes a claim for Plan benefits, that person will have no authority with respect to any matter specifically affecting his or her individual interest under the Plan, and the Committee will designate another person to exercise such authority. The Committee has delegated its day-to-day ministerial responsibility under the Plan to the Company's Human Resources Department under the supervision of the Company's highest level officer in charge of Human Resources or such other person or persons as the Committee may designate (the "***Claims Administrator***").

Other than during a Change in Control Coverage Period, any determination of the Committee shall be final and conclusive, and shall bind and may be relied upon by the Company Group, each of the Participants and all other parties in interest.

6.2 Amendment and Termination of the Plan. Subject to compliance with the requirements of Section 409A, the Committee may amend or terminate the Plan in any respect (including any change to the severance benefits) at any time; *provided*, *however*, that any amendment that would materially adversely affect Participants, any removal of a Participant from coverage hereunder, or any termination of the Plan shall be effective only with one year's prior written notice to affected Participant(s); *and*, *provided further*, that no action that adversely affects a Participant may be adopted or become effective during a Change in Control Coverage Period.

7. Claims for Benefits

7.1 Claims for Benefits.

(a) No claim shall be required for benefits due under the Plan. Any individual eligible for benefits under this Plan who believes he or she is entitled to additional benefits or who desires to clarify his or her right to future benefits under the Plan (a "***Claimant***") may submit his or her application for benefits ("***Claim***") to the Claims Administrator, with a copy to the Company's General Counsel; *provided*, that in the event that the Claimant seeking benefits would otherwise be the Claims Administrator, then the Company's Chief Executive Officer (or his or her designee) shall act as the Claims Administrator. All Claims under the Plan must be properly submitted not later than one year after the Termination Date.

(b) When a Claim has been filed properly, it shall be evaluated subject to a full and fair review and the Claimant or his or her duly authorized representative shall be notified of the approval or the denial of the Claim within 90 days after the receipt of such Claim. If special circumstances require an extension of time for processing a Claim, a written notice of the extension shall be furnished to the Claimant before the end of the initial 90-day period. In no event shall such extension exceed 90 days. The notice of extension shall explain the standards on which entitlement to a benefit is based, the unresolved issues that prevent a decision on the Claim, and the additional information needed to resolve those issues. A Claimant or representative will have at least 45 days to provide the specified information. If a Claim for benefits is denied, in whole or in part, the notice shall be written in a manner calculated to be understood by the Claimant and shall include:

i. The specific reason or reasons for the denial;

ii. References to the specific Plan provisions on which the denial is based;

iii. A description of any additional material or information necessary for the applicant to perfect the Claim and an explanation of why such material or information is necessary; and

iv. A description of the Plan's Claims review procedures and the time limits applicable to such procedures, and a statement of Claimant's right to bring a civil action under Section 502(a) of ERISA following an adverse benefit determination on review.

7.2 Appeal of Denial of Claim.

(a) If a Claim is denied, in whole or in part, or if a Claim is neither approved nor denied within the period specified in Section 7.2(b) or, if applicable, Section 7.2(c) (i.e., is deemed "denied"), Claimant may appeal the denial to the Committee within 60 days after receipt of such denial (or after such Claim is deemed denied). In pursuing such appeal, Claimant or his or her duly authorized representative:

i. may request in writing that the Committee review the denial;

ii. may receive, upon request and free of charge, reasonable access to documents, records and other information relevant to the Claim for benefits; and

iii. may submit documents, records and comments and other information in writing.

(b) Upon receipt of a request for review from a Claimant, the Committee shall make a full and fair evaluation. The decision on review shall be made by the Committee within 60 days of receipt of the request for review. If the Committee determines that special circumstances require an extension of time for processing the Claim, the Claimant or representative will receive a written notice of the extension before the end of the initial 60-day period. The extension notice shall indicate the special circumstances requiring the extension and the date by which the Plan expects to render the determination on review. The decision on review shall be made in writing, shall be written in a manner calculated to be understood by Claimant, and, if the decision on review is a denial of the Claim for benefits, shall include:

i. The specific reason or reasons for the denial;

ii. References to the specific Plan provisions on which the denial is based;

iii. A statement that Claimant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records and other information relevant to Claimant's Claim for benefits; and

iv. A statement of Claimant's right to bring a civil action under ERISA Section 502(a) following an adverse benefit determination.

(c) For these purposes, a document, record or other information is "relevant" to the Claim if it:

i. was relied upon the Claims Administrator in making a decision on the Claim;

ii. was submitted, considered or generated in the course of the Claims Administrator's making a decision on the Claim without regard to whether the Claims Administrator relied upon it in making that decision; or

iii. complies with administrative processes and safeguards which are designed to ensure and to verify that decisions on Claims are made in accordance with governing Plan documents, whose provisions are applied consistently with respect to similarly situated Claimants.

(d) The Claimant or representative will receive, free of charge, as soon as possible and sufficiently in advance of the date on which a notice of adverse benefit determination on review is required to be provided, any new or additional evidence considered, relied upon or generated in connection with the Claim, and any new or additional rationales forming the basis of the Committee's determination of the Claim.

7.3 Finality. Other than during a Change in Control Protection Period, all interpretations, determinations and decisions with respect to any Claim, including the appeal of any Claim, and any matter relating to the Plan will be made by the Committee, in its sole discretion, based on the Plan and comments, documents, records and other information presented to it, and will be final, conclusive and binding on all persons. During a Change in Control Protection Period, all such interpretations, determinations and decisions will be subject to de novo review.

7.4 Exhaustion and Time Limit. A Claimant shall have no right to seek review of a denial of benefits, or to bring any action in any court to enforce a Claim, before filing a Claim and exhausting his or her rights to review under Sections 7.2 and 7.3 above. All actions regarding a denial of benefits or a Claim under the Plan must be filed not later than one year after the date on which the Committee issues its adverse benefit determination. Venue for any such action shall be as provided in Section 10.2.

8. Notices

8.1 General. For purposes of the Plan, notices and all other communications provided for herein shall be in writing and shall be deemed to have been duly given when personally delivered or when mailed by United States certified mail, return receipt requested, or by overnight courier, postage prepaid, as follows:

(a) If to the Committee or the Company:

Embecta Corp.
1 Becton Drive
Franklin Lakes, New Jersey 07417

Attention: Jeff Mann
Senior Vice President, General Counsel,
Head of Corporate Development and Corporate Secretary
E-mail: jeff.mann@bd.com; jeff.mann@embecta.com

(b) If to a Participant, at the home address which such Participant most recently communicated to the Company in writing.

8.2 Notice of Change of Address. The Company may provide Participants with notice of a change of address, and a Participant may provide the Company with notice of a change of address, pursuant to this Section 8.

8.3 Participant Information. Each Participant shall notify the Committee of his or her home address and each change of home address. Each Participant shall also furnish the Committee with any other information and data that the Committee considers necessary for the proper administration of the Plan. The information provided by the Participant under this Section shall be binding on the Participant and his or her dependents, beneficiaries, heirs and estate for all purposes of the Plan and the Committee shall be entitled to rely on any representations regarding personal facts made by a Participant unless such representations are known to be false.

8.4 Electronic Media. Under procedures authorized or approved by the Committee, any form for any notice, election, designation, or similar communication required or permitted to be given to or received from a Participant under this Plan may be communicated or made available to the Company or a Participant in an electronic medium (including computer network, e-mail or voice response system) and any such communication to or from a Participant through such electronic media shall be fully effective under this Plan for such purposes as such procedures shall prescribe. Any record of such communication retrieved from such electronic medium under its normal storage and retrieval parameters shall be effective as a fully authentic executed writing for all purposes of this Plan absent manifest error in the storage or retrieval process.

9. Certain Federal Tax Considerations

9.1 Internal Revenue Code Section 409A.

(a) The amounts payable under the Plan are intended to comply with or, to the maximum extent possible, be exempt from Section 409A, and all provisions of the Plan shall be interpreted and construed in a manner that establishes an exemption from or compliance with the requirements for avoiding additional taxes or interest under Section 409A(a)(1)(B) of the Code. In no event whatsoever will the Company Group, or any Board member, officer or employee of any Group Company acting on behalf of the Company Group, be liable for any additional tax, interest or penalties that may be imposed on a Participant under Section 409A or any damages for failing to comply with Section 409A. Notwithstanding anything in this Plan to the contrary, the Board, the Committee and the Company Group do not guarantee the tax treatment of any payments or benefits under this Plan, whether pursuant to the Code, federal, state or local tax laws or regulations.

(b) A Termination of Employment shall not be deemed to have occurred for purposes of any provision of the Plan providing for the payment of any amounts or benefits subject to Section 409A upon or following a Termination of Employment unless such termination is also a "separation from service" within the meaning of Section 409A and, for purposes of any such provision of the Plan, references to a "termination," "termination of employment" or like terms shall mean "separation from service." If a Participant is deemed on his or her Termination Date to be a Specified Employee, then with regard to any payment or the provision of any benefit that is considered deferred compensation under Section 409A payable on account of a "separation from service," such payment or benefit shall be made or provided on the date which is the earlier of: (i) the first day of the seventh month following the date of such "separation from service" of such Participant, and (ii) the date of such Participant's death (the "***Delay Period***"). Upon the expiration of the Delay Period, all of the payments of a Participant delayed pursuant to this Section 9.1(b)

(whether they would have otherwise been payable in a single sum or in installments in the absence of such delay) shall be paid to such Participant in a lump sum, without interest, and any remaining payments and benefits due such Participant under the Plan shall be paid or provided in accordance with the payment dates specified herein for such payments or benefits.

(c) All reimbursements of expenses provided for herein shall be payable in accordance with the Company's expense reimbursement policies in effect from time to time, but in any event shall be made on or prior to the last day of the taxable year following the taxable year in which such expenses were incurred by the Participant seeking reimbursement. No such reimbursement or expenses eligible for reimbursement in any taxable year shall in any way affect the expenses eligible for reimbursement in any other taxable year. The right to reimbursement or in-kind benefits shall not be subject to liquidation or exchanged for another benefit.

(d) For purposes of Section 409A, a Participant's right to receive any installment payments pursuant to the Plan shall be treated as a right to receive a series of separate and distinct payments. Whenever a payment under the Plan specifies a payment period with reference to a number of days (e.g., "payment shall be made within 60 days following the Termination Date"), the actual date of payment within the specified period shall be within the sole discretion of the Company.

(e) To the extent any payment or benefit which constitutes Section 409A deferred compensation is contingent upon the execution and non-revocation of a Release, then such payment or benefit shall not be made until the latest of: (i) the first payroll date occurring on or after the period for revocation of a Release has expired; and (iii) the set payment date otherwise established for commencing the payments and/or benefits. Further, if the full period given to a Participant to consider such Release plus any revocation period provided for in such Release begins in one calendar year and ends in the subsequent calendar year, then any payment or benefit which constitutes Section 409A deferred compensation shall not be made until the subsequent calendar year.

(f) Notwithstanding any provision of the Plan to the contrary, to the extent that any amount constituting Section 409A deferred compensation would become payable in a lump sum rather than installments under the Plan by reason of a Change in Control, such amount shall become payable in a lump sum only if the event constituting a Change in Control would also constitute a change in ownership or effective control of the Company or a change in the ownership of a substantial portion of the assets of the Company within the meaning of Section 409A (a "***Section 409A Change in Control***"). The portion of any payment or benefit which constitutes Section 409A deferred compensation and which would otherwise be payable in a lump sum pursuant to Section 3.2 upon a Change in Control that does not qualify as a Section 409A Change in Control shall be paid based upon the time and form of payment set forth in Section 3.2, and with respect to other awards or programs in accordance with the plan or other documents governing such award.

9.2 Internal Revenue Code Section 280G Contingent Cutback.

(a) If any payment(s) or benefit(s) that a Participant would receive pursuant to the Plan and/or pursuant to any other agreement, plan, policy or arrangement would (i) constitute a "parachute payment" within the meaning of Section 280G of the Code and applicable regulations, and (ii) but for this Section 9.2 or any reduction provided by reason of Section 280G of the Code in any such other agreement, plan, policy or arrangement, would be subject to the excise tax imposed by Section 4999 of the Code (the "***Excise Tax***"), then such Participant shall be entitled to receive either (A) the full amount of the parachute payments, or (B) the maximum amount that may be provided to such Participant without resulting in any portion of such parachute payments being subject to the Excise Tax, whichever of clauses (A) and (B), after taking into account applicable federal, state, and local income and employment taxes and the Excise Tax, results in the receipt by such Participant, on an after-tax basis, of the greatest portion of the parachute payments. Any reduction for purposes of clause (B) shall be made in the following order: (i) cash severance payments that are exempt from Section 409A shall be reduced; (ii) other cash payments and benefits that are exempt from Section 409A, but excluding any payments attributable to an acceleration of vesting or payments with respect to equity-based compensation that are exempt from Section 409A, shall be reduced; (iii) any other payments or benefits, but excluding any payments attributable to an acceleration of vesting and payments with respect to equity-based compensation that are exempt from Section 409A, shall be reduced on a pro-rata basis or in such other manner that complies with Section 409A; (iv) any payments attributable to an acceleration of vesting or payments with respect to equity-based compensation that are exempt from Section 409A shall be reduced, in each case beginning with payments that would otherwise be made last in time; and (v) to the extent any of such payments or benefits are Section 409A deferred compensation, such payments shall be reduced, in each case beginning with payments that would otherwise be made last in time but without changing any payment date.

(b) Unless the Company and a Participant otherwise agree in writing, any determination required under Section 9.2(a) shall be made in writing by the Company's independent public accountants, whose determination shall be conclusive and binding upon such Participant and the Company for all purposes. For purposes of making the calculations required by Section 9.2(a), the Company's independent public accountants may make reasonable assumptions and approximations concerning applicable taxes and may rely on reasonable, good faith interpretations concerning the application of Sections 280G and 4999 of the Code. The Company and such Participant shall furnish to the Company's independent public accountants such information and documents as the accountants may reasonably request in order to make a determination under Section 9.2(a). In connection with making determinations under this Section 9.2, the accountants shall take into account the value of any reasonable compensation for services to be rendered by the applicable Participant before or after the Change in Control, including any noncompetition provisions that may apply to the Participant, and the Company shall cooperate in the valuation of any such services, including any noncompetition provisions. The Company shall bear all costs the accountants may reasonably incur in connection with any calculations contemplated by this provision.

10. <u>Additional Provisions</u>

10.1 Records. The records of a Group Company with respect to a Participant's length of employment, employment history, reason for employment termination, base pay, absences, and all other relevant matters may be conclusively relied on by the Committee.

10.2 Choice of Law and Dispute Resolution. This Plan is an employee pension benefit plan that is regulated by ERISA, a federal law. Except to the extent pre-empted by ERISA or other federal law, the Plan shall be governed by and construed in accordance with the laws of the State of New Jersey, without regard to its conflict of law provisions. The Company and each Participant agree that the state courts of New Jersey and, if the jurisdictional prerequisites exist at the time, the federal courts in the State of New Jersey, shall have sole and exclusive jurisdiction to hear and determine any dispute or controversy arising under or relating to this Plan. The Company and each Participant irrevocably (i) consents to the exclusive jurisdiction and venue of the courts of New Jersey and federal courts in the State of New Jersey, in any and all actions arising under or relating to this Plan, and (ii) waives any jurisdictional defenses (including personal jurisdiction and venue) to any such action. Other than during a Change in Control Coverage Period, the Committee's interpretation of Plan provisions, and any findings of fact, including eligibility to participate and eligibility for benefits, are final, shall be given deference by any court of law and will not be subject to "de novo" review unless shown to be arbitrary and capricious. The Company and the Participant will each separately pay its counsel fees and expenses unless otherwise determined by a court of competent jurisdiction, provided that with respect to any dispute arising hereunder during a Change in Control Coverage Period, the Company will reimburse the Participant (within ten days of receipt of invoice) for any reasonable legal fees and expenses incurred by a Participant, unless the position of the Participant is finally determined by a court of competent jurisdiction to have been frivolous or advanced in bad faith.

10.3 No Mitigation. No Participant shall have any duty to mitigate the amounts payable under this Plan by seeking or accepting new employment or self-employment following termination. Except as specifically otherwise provided in this Plan, all amounts payable pursuant to this Plan shall be paid without reduction regardless of any amounts of salary, compensation or other amounts that may be paid or payable to the Participant as the result of the Participant's employment by another employer or self-employment.

10.4 Unfunded Obligation. All amounts payable to Participants pursuant to the Plan are unfunded obligations of the Company. The Company shall not be required to segregate any monies from its general funds, or to create any trusts, or establish any special accounts with respect to such obligations. Payments under the Plan shall be made, as due, from the general funds of the Company. The Plan shall constitute solely an unsecured promise by the Company Group to make such payments to the extent provided herein.

10.5 Recoupment and Offset. The Company has the unilateral right, in its sole discretion, and to the extent permitted by applicable law, to offset the payment of benefits under the Plan against amounts due from a Participant under the Company's clawback/recoupment policy as in effect from time to time (including, without limitation, any clawback, recovery or recoupment policy which the Company may be required to adopt under Section 954 of the Dodd-Frank Wall Street Reform and Consumer Protection Act or other applicable law and the rules and regulations of the U.S. Securities and Exchange Commission thereunder or the requirements of any national securities exchange on which the Company's common stock may be listed) and against any other amounts owed to the Company Group by a Participant.

10.6 Overpayments. If any overpayment is made to a Participant under the Plan for any reason, the Company will have the right to recover the overpayment. The Participant and his successors shall cooperate fully with the Company and return any overpayment. The Company also has the right to offset an overpayment from any other payment of compensation made to or on behalf of the Participant.

10.7 Limitation of Liability; Indemnification.

(a) The members of the Board, the Committee and the Claims Administrator shall have no liability with respect to any action or omission made by them in good faith or from any action made in reliance on (i) the advice or opinion of any accountant, legal counsel, medical adviser or other professional consultant or (ii) any resolutions of the Board certified by the secretary or assistant secretary of the Company. Each member of the Board, the Committee, the Claims Administrator and each employee to whom are delegated duties, responsibilities and authority with respect to the Plan shall be indemnified, defended, and held harmless by the Company and its successors against all claims, liabilities, fines and penalties and all expenses (including but not limited to attorneys' fees) reasonably incurred by or imposed on such member of the Board, the Committee, the Claims Administrator and each employee to whom such duties, responsibilities and authorities are delegated that arise as a result of his, her or its actions or failure to act in connection with the operation and administration of the Plan, to the extent lawfully allowable and to the extent that such claim, liability, fine, penalty or expense is not paid for by liability insurance purchased by or paid for by the Company (or any of the other companies in the Company Group). Notwithstanding the foregoing, the Company shall not indemnify any person for any such amount incurred through any settlement or compromise of any action unless the Company consents in writing to such settlement or compromise.

(b) To the extent applicable, the Company will continue to cover each Participant under its directors' and officers' insurance policy following the applicable Termination Date for a period of time equal to the applicable statute of limitations. The Company shall indemnify and hold each Participant harmless to the fullest extent legally permitted or authorized by the Company's by-laws or by applicable law, in respect of any liability, damage, cost or expense (including reasonable attorneys' fees) actually and reasonably incurred in connection with the defense of any claim, action, suit or proceeding to which the Participant is a party by reason of the Participant's being or having been an officer or director of the Company or any subsidiary or affiliate, or the Participant's serving or having served at the request of such other entity as a director, officer, employee or agent of another corporation or of a partnership, joint venture, trust, business organization, enterprise or other entity, including service with respect to employee benefit plans. Without limiting the generality of the foregoing, the Company shall pay the expenses (including reasonable attorneys' fees) actually and reasonably incurred in defending any such claim, action, suit or proceeding in advance of its final disposition, upon receipt of the Participant's undertaking to repay all amounts advanced unless it is ultimately determined that the Participant is entitled to be indemnified under this Section.

10.8 No Representations. By executing a Participation Agreement, a Participant acknowledges that in becoming a "Participant" in the Plan, such Participant is not relying and has not relied on any promise, representation or statement made by or on behalf of the Company Group which is not set forth explicitly in the Plan.

10.9 Waiver. No waiver by a Participant or the Company Group of any breach of, or of any lack of compliance with, any condition or provision of the Plan by the other party shall be considered a waiver of any other condition or provision or of the same condition or provision at another time.

10.10 Validity and Severability. The invalidity or unenforceability of any provision of the Plan shall not affect the validity or enforceability of any other provision of the Plan, which shall remain in full force and effect, and any prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

10.11 Benefits Not Assignable. Except as otherwise required by law, no right or interest of any Participant under the Plan shall be assignable or transferable, in whole or in part, either directly or otherwise, including, without limitation, by execution, levy, garnishment, attachment, pledge or in any other manner, and no attempted transfer or assignment thereof shall be effective.

10.12 Tax Withholding. All payments made pursuant to the Plan will be subject to withholding of applicable income and employment taxes.

10.13 Further Assurances. From time to time, at the Company's request and without further consideration, a Participant shall execute and deliver such additional documents and take all such further action as reasonably requested by the Company to be necessary or desirable to make effective, in the most expeditious manner possible, the terms of the Plan, such Participant's Participation Agreement, and/or such Participant's Separation and Release Agreement.

10.14 Successors. This Plan shall inure to the benefit of and be binding upon the Company, each company with the Company Group, and their respective successors and assigns. The Company will require any successor (whether direct or indirect, by purchase, merger, consolidation or otherwise) to all or substantially all of the business or assets of any Group Company to assume expressly and agree to comply with this Plan in the same manner and to the same extent that such Group Company would be required to comply with it if no such succession had taken place. Failure to require such assumption will be a material breach of this Plan. Any successor to the business or assets of any Group Company that assumes or agrees to perform this Plan by operation of law, contract, or otherwise shall be jointly and severally liable with the Company Group under this Plan as if such successor were the employer.

10.15 Payments to Beneficiary. If a Participant dies after becoming entitled to payments under this Plan but before receiving all amounts to which he or she is entitled under this Plan, then such remaining amounts shall be paid to his or her estate notwithstanding his or her marital status.

Schedule A

Eligible Employees and Severance Schedule

Job Level/Title	Severance Formula (Outside of CIC Coverage Period)	Health & Welfare Severance Benefit Period	CIC Severance Formula (During CIC Coverage Period)	Health & Welfare Severance Benefit During CIC Coverage Period
CEO	24 months of Base Salary plus 2x Target Annual Bonus	24 months	3x sum of (i) Base Salary as of the Termination Date plus (ii) greater of (a) Target Annual Bonus or (b) Annualized Bonus	36 months
CEO SVP Direct Reports	12 months of Base Salary plus 1x Target Annual Bonus	12 months	2x sum of (i) Base Salary as of the Termination Date plus (ii) greater of (a) Target Annual Bonus or (b) Annualized Bonus	24 months
VPs as Designated by the Committee	9 months of Base Salary	9 months	1x sum (i) of Base Salary as of the Termination Date plus (ii) greater of (a) Target Annual Bonus or (b) Annualized Bonus	12 months

EXHIBIT A

FORM OF AGREEMENT TO PARTICIPATE IN THE EMBECTA EXECUTIVE SEVERANCE AND CHANGE IN CONTROL PLAN

[EMBECTA LETTERHEAD]

[DATE], 20____

AGREEMENT TO PARTICIPATE IN THE EMBECTA CORP. EXECUTIVE SEVERANCE AND CHANGE IN CONTROL PLAN

Dear [INSERT PARTICIPANT NAME],

As a critical employee of Embecta Corp. (the "Company" and, together with its direct and indirect subsidiaries, the "Company Group") or another member of the Company Group, you are eligible to participate in the Company's newly adopted Executive Severance and Change in Control Plan (as amended from time to time, the "Plan"). A copy of the Plan is enclosed with this Agreement to Participate in the Embecta Executive Severance and Change in Control Plan (the "Participation Agreement"). Capitalized terms used in this Participation Agreement and not otherwise defined herein shall have the meanings ascribed to them in the Plan.

The Company considers the severance benefits offered under the Plan to be an important part of our overall executive compensation program and consistent with competitive market practice. We believe that providing appropriate severance benefits helps to attract and retain highly qualified executives by providing income continuity in the event of an involuntary termination of employment. These arrangements also allow the Company Group to protect its interests through corresponding confidentiality, non-solicitation, noncompetition and other restrictive covenants, which are among the provisions that will be incorporated into a Separation and Release Agreement that the Participant in the Plan must execute and return (and not thereafter revoke) in order to be eligible to receive the severance benefits set forth in the Plan. You are hereby notified in accordance with the Defend Trade Secrets Act of 2016 that you will not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that: (a) is made (i) in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney; and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (b) is made in a complaint or other document that is filed under seal in a lawsuit or other proceeding. You are further notified that if you file a lawsuit for retaliation by the Company for reporting a suspected violation of law, you may disclose the Company's trade secrets to your attorney and use the trade secret information in the court proceeding if you: (a) file any document containing the trade secret under seal; and (b) do not disclose the trade secret, except pursuant to court order.

By accepting this Participation Agreement, you hereby acknowledge, agree and confirm that:

1. You have received a copy of the Plan and have read, understand and are familiar with the terms and provisions of the Plan;

2. The Plan supersedes and replaces the severance provisions of any existing severance arrangement (or other agreement providing for severance benefits), whether written or unwritten, to which you are a party[, including but not limited to the [INSERT NAME(S) OF EXISTING AGREEMENT(S) PROVIDING SEVERANCE BENEFITS], dated [INSERT DATE]] (each, a "Prior Severance Agreement"). You agree that each Prior Severance Agreement is hereby rendered null and void and no longer in effect. You further agree that in no circumstances are you or will you be eligible to receive severance benefits of any kind under a Prior Severance Agreement.

3. The employment relationship between yourself and the Company (or any Group Company that employs you) is an "at-will" relationship;

4. In order to obtain certain of the severance benefits provided for in the Plan, you will be required to execute, deliver, and not thereafter revoke, a Separation and Release Agreement, which will contain, among other things, certain restrictive covenants to which you will be subject;

5. Disputes and disagreements regarding your right to severance benefits under the Plan are governed by a claims procedure set forth in Section 7 of the Plan, which you must follow; and

6. The Company has the unilateral right, in its sole discretion, to offset the payment of benefits to you under the Plan against amounts due from you under the Company's clawback/recoupment policy as in effect from time to time and against any other amounts that you owe to the Company Group.

You acknowledge that: (i) the Plan confers significant legal rights and obligations; (ii) the Company has encouraged you to consult with legal and financial advisors as appropriate; and (iii) you have had adequate time to consult with such advisors before executing this Participant Agreement.

Please indicate your acceptance and agreement to the Plan and this Participation Agreement by signing in the space indicated below and returning the agreement to the Company by no later than [INSERT]. Upon your acceptance, you shall be deemed a "Participant" of the Executive Severance Plan as of the date your duly signed Participation Agreement is received by the Company.

Sincerely,

EMBECTA CORP.

By: _____

Name: _____

Title: _____

AGREED AND ACCEPTED BY THE UNDERSIGNED ON THIS ____ DAY OF____, 20__.

PARTICIPANT

[INSERT PARTICIPANT NAME]
Signature

Name Printed

Address

Exhibit 10.17

EMBECTA DEFERRED COMPENSATION PLAN

Effective April 1, 2022

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EMBECTA DEFERRED COMPENSATION PLAN

Effective as of April 1, 2022

FOREWORD

On April 1, 2022 Becton Dickinson Corporation ("BD") entered into a transaction whereby the public shareholders of BD would be issued stock dividends consisting of the common stock of Embecta Corp. ("Embecta") as of April 1, 2022 separation date, as described in the Form 10 filed by Embecta with the SEC on February 2, 2022 (the transaction, the "Separation"). BD and Embecta entered into a Separation and Distribution Agreement, a form of which is attached as Exhibit 2.1 to the Form 10 filed by Embecta on February 2, 2022 (the "Separation Agreement") to effect the Separation.

As a result of the Separation, BD and Embecta are no longer members of the same controlled group of corporations.

BD adopted the BD Deferred Compensation and Retirement Benefit Restoration Plan (the "BD Plan"), effective August 1, 1994 and thereafter amended from time to time, to allow a select group of key management or other highly compensated employees of the BD and its affiliates and subsidiaries to defer a portion of the salaries, bonuses and other remuneration (including certain equity-based compensation) otherwise payable to them.

On April 1, 2022 (the "Effective Date"), Embecta adopted this Embecta Deferred Compensation Plan (the "Plan") for the benefit of certain employees to (i) accept the liabilities of Participants and Beneficiaries of the BD Plan spun-off to Embecta as set forth on Exhibit A and (ii) to provide benefits to Participants as set forth herein. The purpose of the Plan is to permit those employees of the Company who are part of a select group of management or highly compensated employees to defer, pursuant to the provisions of the Plan, a portion of the salaries, bonuses and other remuneration otherwise payable to them. The Plan is intended to be an unfunded plan of deferred compensation primarily for the benefit of a select group of management and highly compensated employees.

In accordance with the Separation Agreement and immediately after the Separation, BD spun-off a portion of the BD Plan to Embecta designated by BD which represents the assets and liabilities of Participants and Beneficiaries related to the BD Plan under the Plan as set forth on Exhibit A (the "Transferred Amounts") which, for the avoidance of doubt, shall not include any assets and liabilities relating to the Restoration Plan Benefit (as defined in the BD Plan).

All Transferred Amounts will be subject to the terms of the Plan. Specifically, the Plan shall apply as follows:

- Pre-Separation Deferrals. Transferred Amounts related to deferrals made prior to the Separation, and earnings thereon, shall continue to be administered in accordance with the terms of the BD Plan, as amended and restated effective January 1, 2022 (attached as Exhibit B) and with any elections made thereunder; provided that the BD Plan shall be subject to Amendment 2022-1 attached hereto as Exhibit C.

- Post-Separation Deferrals. The provisions of this Plan shall apply to deferrals made on or following the Separation, and earnings thereon.

ARTICLE I
Definitions

Section 1.1 "401(k) Plan" means the Embecta 401(k) Plan.

Section 1.2 "401(k) Plan Non-Elective Contributions"means Company Non-Elective Contributions (as defined in the 401(k) Plan), which shall include Temporary Supplemental Non-Elective Contributions (as defined in the 401(k) Plan), as applicable.

Section 1.3 "Account" or "Accounts" means the bookkeeping account or accounts established under the Plan, if any, on behalf of a Participant and includes earnings credited thereon or losses charged thereto.

Section 1.4 "Agreement"means an agreement entered into between an Eligible Employee and the Company, as agreed to by the Compensation and Benefits Committee of the Board of Directors of the Company (or any committee successor thereto), to participate in the provisions of this Plan related to Restoration Plan benefits and delineating certain terms and conditions with respect to such participation including (but not limited to) the benefits (if any) that are to be provided to the Eligible Employee in lieu of or in addition to the benefits described under the terms of this Plan.

Section 1.5 "Annual Open Enrollment Period" means the annual period designated by the Committee, which ends not later than the December 31 of a Plan Year, during which a Participant may make or change deferral and/or distribution elections under this Plan.

Section 1.6 "Base Salary" means the base salary or wages otherwise taken into account under the 401(k) Plan, determined in accordance with the provisions of such plan, but without regard to the limitation on compensation otherwise required under Code Section 401(a)(17), and without regard to any deferrals of the foregoing of compensation under this or any other plan of deferred compensation maintained by the Company.

Section 1.7 "Beneficiary" or "Beneficiaries"means the beneficiary or beneficiaries who, pursuant to the provisions of this Plan, is or are to receive the amount, if any, payable under this Plan upon the death of a Participant.

Section 1.8 "Board of Directors" means the Board of Directors of the Company.

Section 1.9 "Bonus" means the annual bonus payable under the Company's Performance Incentive Plan, or any successor thereto.

Section 1.10 "Code" means the Internal Revenue Code of 1986, as amended, or any successor statute.

Section 1.11 "Committee" means the Plan Administrative Committee, which is responsible for administering the Plan. The Committee shall consist of three or more employees of the Company as determined by, and appointed by, the Board of Directors. The Committee may delegate pursuant to a written authorization (including, by way of illustration, through a contract, memorandum, or other written delegation document) any or all of its responsibilities involving ongoing day-to-day administration or ministerial acts, as set forth in this Plan to one or more individuals or service-providers. In any case where this Plan refers to the Committee, such reference is deemed to be a reference to any delegate of the Committee appointed for such purpose.

Section 1.12 "Company" means Embecta and any successor to such corporation by merger, purchase or otherwise.

Section 1.13 "Company Discretionary Credits" means the amounts credited to a Participant's Company Discretionary Credit Account, if any, pursuant to Section 3.4.

Section 1.14 "Company Discretionary Credit Account" means the bookkeeping account established under Section 3.4, if any, on behalf of a Participant and includes any earnings credited thereon or losses charged thereto pursuant to Article V.

Section 1.15 "Company Matching Credits" means the amounts credited to a Participant's Company Matching Credit Account, if any, pursuant to Section 3.3.

Section 1.16 "Company Matching Credit Account" means the bookkeeping account established under Section 3.3, if any, on behalf of a Participant and includes any earnings credited thereon or losses charged thereto pursuant to Article V.

Section 1.17 "Company Non-Elective Credits" means the amounts credited to a Participant's Company Non-Elective Credit Account, if any, pursuant to Section 3.5.

Section 1.18 "Company Non-Elective Credit Account" means the bookkeeping account established under Section 3.5, if any, on behalf of a Participant and includes any earnings credited thereon or losses charged thereto pursuant to Article IV.

Section 1.19 "Deferral Election" means the Participant's election to participate in this Plan and defer amounts eligible for deferral in accordance with the Plan terms. Except as the context otherwise requires, references herein to Deferral Elections include any subsequent modifications of a prior Deferral Election.

Section 1.20 "Deferred Bonus" means the amount of a Participant's Bonus that such Participant has elected to defer until a later year pursuant to an election under Section 3.2.

Section 1.21 "Deferred Bonus Account" means the bookkeeping account established under Section 3.2 on behalf of a Participant, and includes any earnings credited thereon or losses charged thereto pursuant to Article IV.

Section 1.22 "Deferred Bonus Election" means the election by a Participant under Section 3.2 to defer a portion of the Participant's Bonus until a later year.

Section 1.23 "Deferred Salary" means the amount of a Participant's Base Salary that such Participant has elected to defer until a later year pursuant to an election under Section 3.1.

Section 1.24 "Deferred Salary Account" means the bookkeeping account established under Section 3.1 on behalf of a Participant, and includes any earnings credited thereon or losses charged thereto pursuant to Article V.

Section 1.25 "Deferred Salary Election" means the election by a Participant under Section 3.1 to defer until a later year a portion of his or her Base Salary.

Section 1.26 "Disability" or "Disabled" means a Participant's disability as determined in accordance with a disability insurance program maintained by the Company.

Section 1.27 "ERISA" means the Employee Retirement Income Security Act of 1974, as amended, or any successor statute.

Section 1.28 "Fiscal Year" means the fiscal year of the Company, which currently is the twelve-month period commencing on the first day of October and ending on the last day of September of the following calendar year.

Section 1.29 "Group" means the Company and any other company which is related to the Company as a member of a controlled group of corporations in accordance with Section 414(b) of the Code, as a trade or business under common control in accordance with Section 414(c) of the Code or any other entity to the extent it is required to be treated as part of the Group in accordance with Section 414(o) of the Code and any regulations thereunder, or any organization which is part of an affiliated service group in accordance with Section 414(m) of the Code. For the purposes under the Plan of determining whether or not a person is a Participant and the period of employment of such person, each such company shall be included in the "Group" only for such period or periods during which such other company is a member of the controlled group or under common control.

Section 1.30 "Investment Election" means the Participant's election to have deferred amounts credited with hypothetical earnings credits (or losses) that track the investment performance of the Investment Options in accordance with Article IV.

Section 1.31 "Investment Options" means those hypothetical targeted investment options designated by the Committee as measurements of the rate of return to be credited to (or charged against) amounts deferred to Participants' Accounts.

Section 1.32 "Participant" means a common law employee of the Company who meets the eligibility and participation requirements set forth in Article II.

Section 1.33 "Plan" means the Embecta Deferred Compensation Plan as from time to time in effect.

Section 1.34 "Plan Year" means the calendar year.

Section 1.35 "Separation from Service" means a termination of employment or other separation from service from the Company as described in Code Section 409A and the regulations thereunder.

Section 1.36 "Specified Employee" means a person identified in accordance with procedures adopted by the Committee that reflect the requirements of Code Section 409A(a)(2)(B)(i) and applicable guidance thereunder.

Section 1.37 "Spouse" means the individual to whom the Participant is legally married on the date of death or other benefit commencement.

Section 1.38 "Total Eligible Compensation" means the base salary or wages and bonus otherwise taken into account under the 401(k) Plan, determined in accordance with the provisions of such plan, but without regard to the limitation on compensation otherwise required under Code Section 401(a)(17), and without regard to any deferrals of the foregoing of compensation under this or any other plan of deferred compensation maintained by the Company; provided, however, that Total Eligible Compensation for a Plan Year shall not exceed three (3) times the dollar limit otherwise in effect for such Plan Year under Code Section 401(a)(17).

ARTICLE II
Eligibility and Participation

Section 2.1 Eligibility.

(a) Only "Eligible Employees" who meet the conditions of this Article II shall be eligible to become a Participant in this Plan.

(b) An "Eligible Employee" is an individual who meets the following requirements:

(i) the individual is a common law employee of a unit of the Company (or of one of its subsidiaries) to which the Plan has been adopted pursuant to a decision by, or with the approval of, the Board of Directors;

(ii) the individual is not a nonresident alien of the United States receiving no United States source income within the meaning of Sections 861(a)(3) or 911(d)(2) of the Code; and

(iii) (A) the employee has annualized Base Salary of $235,000 or more (indexed annually by the same amount as the compensation limit under Code Section 401(a)(17) beginning on November 1, 2022) as of November 1 of the calendar year prior to the calendar year in which the Deferral Election takes effect; provided, however, that a new hire employee's annual Base Salary for purposes of this Section 2.1(c)(iii) is determined as of his or her date of hire. For purposes of clarity, if the Deferral Election takes effect as of January 1, 2022, the employee must have an annual Base Salary of $235,000 as of November 1, 2021 or (B) the employee is allocated a Non-Elective Credit under the Plan respect to a calendar year pursuant to Section 3.5.

(c) The Committee shall have the ability to adjust, prospectively for any Plan Year, the dollar limitation in Section 2.1(b)(iii). The Committee may also:

(i) designate as ineligible particular individuals, groups of individuals or employees of business units who otherwise would be eligible under Section 2.1(b); or

(ii) designate as eligible particular individuals, groups of individuals or employees of business units who otherwise would be ineligible under Section 2.1(b);

provided, however, that any such designations shall be made in a manner consistent with the requirements of Code Section 409A and the regulations and other guidance thereunder to avoid adverse tax consequences to affected Participants.

(d) An employee who, at any time, ceases to meet the foregoing eligibility requirements, as determined in the sole discretion of the Committee, shall thereafter cease to be a Participant eligible to continue making deferrals under the Plan, effective as of the first day of the Plan Year coincident with or next following the date of such cessation of eligibility in a manner consistent with the requirements of Code Section 409A and the regulations and other guidance issued thereunder to avoid adverse tax consequences to affected Participants, and any deferral elections then in effect shall cease to be effective as of the first day of such Plan Year. In such case, the individual may remain a Participant in the Plan with respect to amounts already deferred prior to the date such individual ceased to be an active Participant.

Section 2.2 Participation.

(a) General Rule. An Eligible Employee shall become an active Participant in the Plan at the earliest time that the Eligible Employee: (i) makes a timely Deferral Election pursuant to Subsections (b) and (c) herein; or (ii) meets the requirements under Subsection (d) with respect to eligibility for a Company Non-Elective Credit.

(b) Deferral Election. Subject to Section Section 2.2(d), as soon as practicable after the Committee determines that an individual is an Eligible Employee, the Committee shall provide the Eligible Employee with the appropriate election forms with which to make a Deferral Election. The Eligible Employee shall make the Deferral Election in the manner set forth in Subsection (c) herein and within the time periods set forth in Article III. In the case of an employee who first becomes an Eligible Employee under this Plan (and is not eligible for any other plan with which this Plan is aggregated for purposes of Code Section 409A) during a Plan Year, such Deferral Election may be made within the first thirty (30) days of eligibility with respect to any Base Salary to be earned thereafter for the remainder of the Plan Year. If the Participant does not return the completed forms to the Committee at such time as required by the Committee, the Participant will not be allowed to participate in the Plan until the next Annual Open Enrollment Period. All Deferral Elections hereunder (including any modifications of prior Deferral Elections otherwise permitted under the Plan) may be made in accordance with written, electronic or telephonic procedures prescribed by the Committee.

Notwithstanding the foregoing, the earliest an individual hired in November or December of a Plan Year shall first become an Eligible Employee under this Plan is as of January 1 of the Plan Year immediately following his or her date of hire.

(c) Contents of Deferral Election. A Participant's Deferral Election must be made in the manner designated by the Committee and must be accompanied by:

(i) any election to defer Base Salary and/or Bonus;

(ii) any election to defer payment of any Company Discretionary Credits and a separate deferral period election with respect to each such separate category of deferral;

(iii) an Investment Election in accordance with the provisions of Article IV;

(iv) a designation of a Beneficiary or Beneficiaries to receive any deferred amounts owed upon the Participant's death;

(v) a designation as to the form of distribution for each separate year's deferral and each separate category of deferral (Company Matching Credit deferrals will be subject to the Participant's distribution option elections with respect to Base Salary; provided, however, that if the Participant does not make a Base Salary election but does make a Bonus deferral election, then the Participant's Company Matching Credit deferrals will be subject to the Participant's distribution option elections with respect to Bonus); provided, however, that if no specific election is made with respect to any deferred amount, the Participant will be deemed to have elected to receive such amounts in the form of a lump sum distribution in cash; and

(vi) such additional information as the Committee deems necessary or appropriate.

(d) Unless the Committee determines otherwise or unless otherwise provided in an Agreement, if any, an Eligible Employee shall automatically become a Participant in this Plan upon an allocation of Company Non-Elective Credits under Section 3.5 to his or her Company Non-Elective Credit Account, but such Participant shall not be permitted to make a Deferral Election unless such Participant otherwise meets the eligibility requirements set forth in Section 2.1(b)(iii)(A).

(e) The participation of any Participant may be suspended or terminated by the Committee at any time, but no such suspension or termination shall operate to reduce any benefits accrued by the Participant under the Plan prior to the date of suspension or termination and, further, any such suspension or termination may only be done in a manner consistent with the requirements of Code Section 409A and the regulations and other guidance issued thereunder to avoid adverse tax consequences to affected Participants.

ARTICLE III
Deferral Elections and Deferral Periods

Section 3.1 Deferred Salary Election.

(a) Each Participant who has elected to defer the maximum pre-tax elective deferral that is permitted for a calendar year under the 401(k) Plan and under Code Section 402(g) may make a Deferred Salary Election with respect to Base Salary otherwise to be paid in such calendar year. A Participant may elect to defer from 1% to 75% of the Participant's Base Salary (in increments of 1%). Notwithstanding the foregoing, any Deferred Salary Election must be made in a manner that will ensure that the Participant is paid a sufficient amount of Base Salary that will allow adequate amounts available for (i) any pre-tax elective deferrals under the 401(k) Plan, and (ii) any amounts to be deferred by the Participant in order to participate in any other benefit programs maintained by the Company.

(b) Except with respect to Deferred Salary Elections made by Participants who first become eligible to participate during a Plan Year (which elections must be made as specified in Section 2.2(b)), a Deferred Salary Election with respect to Base Salary for a particular calendar year must be made during the time period specified by the Committee, but in no event later than the December 31 preceding the commencement of that calendar year or at such earlier time as determined by the Committee. Once a Deferred Salary Election is made, it shall be irrevocable after the final deadline established by the Committee for making the election. Such Deferred Salary shall be credited to the Participant's Deferred Salary Account as of the first business day after the last day of each payroll period.

Section 3.2 Deferred Bonus Election.

(a) Each Participant who agrees to defer the maximum pre-tax elective deferral that is permitted for a calendar year under the 401(k) Plan and under Code Section 402(g) may elect to make a Deferred Bonus Election with respect to a Bonus otherwise to be paid in the calendar year immediately following (or, in the discretion of the Committee, in a later year following) the year of the Participant's Deferred Bonus Election. A Participant may elect to defer from 1% to 100% of the Participant's Bonus (in increments of 1%); provided, however, that the Participant's Deferred Bonus Election must result in a deferral of at least $5,000. In the event that Participant's Deferred Bonus Election does not result in a deferral of at least $5,000 but the Participant's Bonus is at least $5,000, such Participant's Deferred Bonus Election shall be automatically increased to the percentage that results in a deferral of $5,000. In the event that the Participant's Bonus is less than $5,000, such Participant's Deferred Bonus Election shall be void.

(b) A Deferred Bonus Election with respect to any Bonus to be earned during a Fiscal Year must be made no later than the date that is six months before the end of the performance period (which performance period shall not be less than twelve months) or such other earlier date designated by the Committee. Once made, a Deferred Bonus Election cannot be changed or revoked after the final deadline established by the Committee for making the election, except as provided herein. Such Deferred Bonus shall be credited to the Participant's Deferred Bonus Account as of the first business day in January of the year that the Bonus otherwise would have been paid to the Participant in the absence of any deferral hereunder.

Section 3.3 Company Matching Credits.

(a) If a Participant has made a Deferred Salary Election in accordance with Section 3.1 or a Deferred Bonus Election in accordance with Section 3.2, then the Participant shall be eligible to have Company Matching Credits credited to the Participant's Company Matching Credit Account in accordance with Section 3.4(b). The maximum potential Company Matching Credits for a Participant under this Plan for a Plan Year shall equal the difference between 4.5% of Total Eligible Compensation minus the maximum Company matching contribution available to the Participant under the 401(k) Plan. That potential maximum amount shall be credited to a Participant's Company Matching Credit Account only if the Participant has deferred at least 6% of Total Eligible Compensation, taking into account deferrals under this Plan and pre-tax elective deferrals under the 401(k) Plan (other than catch-up contributions). If a Participant has deferred less than 6% of Total Eligible Compensation, taking into account deferrals under this Plan and pre-tax elective deferrals under the 401(k) Plan (other than catch-up contributions), then the actual Company Matching Credits to be credited to a Participant's Company Matching Credit Account shall equal 75% of the total of the Participant's Deferred Salary and Deferred Bonus under this Plan plus the Participant's pre-tax elective deferrals under the 401(k) Plan (other than catch-up contributions), less the matching contribution to which the Participant is entitled under the 401(k) Plan.

(b) Company Matching Credits under Section 3.3(a) shall be credited to the Participant's Company Matching Credit Account as soon as practicable as determined by the Committee after such deferral is credited to the Participant's Deferred Salary Account and/or Deferred Bonus Account, but in no event less frequently than on an annual basis, and shall be subject to the overall Plan Year limit on such amounts described in Section 3.3(a) and the vesting schedule described in Article IV.

Section 3.4 Company Discretionary Credits.

(a) The Company may, in its sole discretion, provide for additional credits to all or some Participants' Accounts at any time. Such amounts shall be credited to the Participant's Company Discretionary Credit Account and shall be subject to the vesting schedule established by the Company at the time such amounts are credited.

Section 3.5 Company Non-Elective Credits.

(a) Each Eligible Employee shall receive a Company Non-Elective Credit credited to the Participant's Company Non-Elective Credit Account for each Plan Year if the Eligible Employee is employed by a Participating Employer on the Company's last business day of such Plan Year, unless not employed on such date due to death, Disability, or retirement from active employment (within the meaning of Section 5.1(a)(i) and (ii)).

(b) The Company Non-Elective Credit shall equal:

(i) The total amount of the Participant's 401(k) Plan Non-Elective Contributions for the applicable Plan Year (including any Temporary Supplemental Non-Elective Contributions, if applicable) that would have been credited to such Participant if such Non-Elective Contributions had not been reduced due to the limitations set forth in the Code; minus

(ii) The amount of the Participant's 401(k) Plan Non-Elective Contributions for such Plan Year.

(c) Company Non-Elective Credits under Section 3.5(a) shall be credited to the Participant's Company Non-Elective Credit Account as soon as practicable after the end of the Plan Year to which the Company Non-Elective Credit relates, and shall be subject to the vesting schedule described in Article IV.

Section 3.6 Deferral Period.

(a) In accordance with Section 2.2(b), and subject to the limitation of Section 3.6(b), each Participant must elect the deferral period for each separate category of deferral. Subject to the additional deferral provisions of Section 3.7 and the acceleration provisions of Article V, a Participant's deferral period with respect to amounts deferred other than those described in Section 3.6(b) may be for a specified number of years or until a specified date, subject to any limitations that the Committee in its discretion may choose to apply (which limitations shall comply with the requirements for tax deferral under Code Section 409A), provided that, in all events, a deferral period must be for at least two (2) years from the first day of the Plan Year in which the deferred amounts would otherwise be payable (or, in the case of amounts described in Section 3.3, credited to the Participant's Account). However, notwithstanding the deferral period otherwise specified, payments shall be paid or begin to be paid under the Plan in accordance with the mandatory distribution provisions in Article V and any election which would otherwise result in a deferral beyond any applicable mandatory distribution age is invalid.

(b) Notwithstanding the provisions of Section 3.6(a) and Section 2.2(b), and subject to Section 5.1(e), all Company Matching Credits credited to a Participant's Company Matching Credit Account pursuant to Section 3.3 shall be deferred until the Participant's Separation from Service and may not be deferred to a specified date prior to such Participant's Separation from Service. The foregoing notwithstanding, in any case where the Participant is a Specified Employee, payment of the amounts under this Section 3.6(b) on account of the Participant's Separation from Service shall be deferred until as soon as practicable after the earlier of (i) the first day of the seventh month following the Participant's Separation from Service (without regard to whether the Participant is reemployed on that date), or (ii) the date of the Participant's death, subject to any permitted further deferral election on account of a change in form of payment.

Section 3.7 Modification of Deferral Period.

(a) With respect to any deferred amounts credited to a Participant's Accounts an additional deferral election may be made, provided that such election shall not be effective unless the following requirements are met:

(i) the election will not take effect until at least twelve months after the date on which the election is made and will not be recognized with respect to payments that would otherwise have commenced during such twelve-month period;

(ii) except for payments made on account of a Participant's death or financial hardship under Section 5.1(e), the first payment with respect to which such election is made shall be deferred for a period of not less than five years from the date such payment would otherwise have been made;

(iii) any election related to payments that would otherwise have commenced as of a specified time, as opposed to the Participant's Separation from Service, may not be made less than twelve months prior to the date on which such payments would otherwise have commenced; and

(iv) any such additional deferral election shall not be effective if it would otherwise result in deferring amounts later than the mandatory distribution age provisions of Article V.

ARTICLE IV
Participants' Accounts

Section4.1 Crediting of Employee Deferrals and Company Matching, Discretionary and Non-Elective Credits.

(a) Deferrals to this Plan that are made under Article III shall be credited to the Participant's Accounts in accordance with such rules established by the Committee from time to time. Each Participant's Accounts shall be administered in a way to permit separate Deferral Elections, deferral periods, and Investment Elections with respect to various Plan Year deferrals and compensation types as the Committee determines, in its sole discretion, are necessary or appropriate.

Section4.2 Investment Election.

(a) Participants' Investment Elections with respect to deferred amounts hereunder shall be made pursuant to the written, telephonic or electronic methods prescribed by the Committee and subject to such rules on Investment Elections and Investment Options as established by the Committee from time to time. Upon receipt by the Committee, and in accordance with rules established by the Committee, an Investment Election shall be effective as soon as practicable after receipt and processing of the election by the Committee. Investment Elections will continue in effect until changed by the Participant. An eligible Participant may change a prior Investment Election (or default Investment Election) with respect to deferred amounts on a daily basis, by notifying the Committee, at such time and in such manner as approved by the Committee. Any such changed Investment Election may result in amending Investment Elections for prior deferrals or for future deferrals or both.

(b) For purposes of Company Non-Elective Credits, the most recent Investment Elections in effect for a Participant's Company Matching Credits (if any) that relate to the same Plan Year as the Company Non-Elective Credits as of the date the Company Non-Elective Credits are made will be used for such Company Non-Elective Credits and, in the absence of any Investment Elections, the Plan's default Investment Elections will be used for the Company Non-Elective Credits.

Section4.3 Hypothetical Earnings.

(a) Subject to Section 4.2, except as otherwise provided herein, additional hypothetical bookkeeping amounts shall be credited to (or deducted from) a Participant's Accounts to reflect the earnings (or losses) that would have been experienced had the deferred amounts been invested in the Investment Options selected by the Participant as targeted rates of return, net of all fees and expenses otherwise associated with the Investment Options. The

Committee may add or delete Investment Options, on a prospective basis, by notifying all Participants whose Accounts are hypothetically invested in such Investment Options, in advance, and soliciting elections to transfer deferred amounts so that they track investments in other Investment Options then available.

Section 4.4 Vesting.

(a) At all times a Participant shall be fully vested in his Deferred Salary and Deferred Bonus Accounts hereunder (including any earnings or losses thereon). A Participant shall become vested in any Company Matching Credits and Company Non-Elective Credits in the same manner and to the same extent as the Participant is vested in matching contributions otherwise credited to the Participant under the 401(k) Plan. A Participant shall become vested in any Company Discretionary Credits pursuant to the vesting schedule established by the Company at the time such Credits, if any, are made. Except as otherwise provided in Section 5.1(b) (death) or Section 5.1(c) (disability), if a Participant incurs a Separation from Service at any time prior to becoming fully vested in amounts credited to the Participant's Accounts hereunder, the nonvested amounts credited to the Participant's Accounts shall be immediately forfeited and the Participant shall have no right or interest in such nonvested deferred amounts.

Section 4.5 Account Statements.

(a) Within 60 days following the end of each Plan Year (or at such more frequent times determined by the Committee), the Committee shall furnish each Participant with a statement of Account which shall set forth the balances of the individual's Accounts as of the end of such Plan Year (or as of such time determined by the Committee), inclusive of tracked earnings (or losses). In addition, the Committee shall maintain records reflecting each year's deferrals separately by type of compensation.

ARTICLE V
Distributions and Withdrawals

Section 5.1 Timing of Distributions.

(a) Timing of Distribution – Distributions of Vested Accounts Other than Death, Disability, or Scheduled Distributions. Except as otherwise provided herein, in the case of a Participant who incurs a Separation from Service before retirement from active employment (as defined below), a Participant's vested Accounts shall be paid or commence to be paid, in the form of distribution elected in a particular Deferral Election (subject to Section 5.2), as soon as practicable (as determined by the Committee) after the Participant's Separation from Service. Notwithstanding the foregoing, in the case of a Participant who incurs a Separation from Service with vested Company Non-Elective Credits, such vested Company Non-Elective Credits shall be paid in the form of a single lump sum distribution as soon as practicable after such Separation from Service for any reason (subject to the delay requirements described below that are applicable to Specified Employees). In the case of a Participant who retires from active employment hereunder (as defined below), and subject to Section 5.1(e), a Participant's vested Accounts shall be paid or commence to be paid, in the form of distribution elected in a particular Deferral Election (subject to Section 5.2), as soon as practicable (as determined by the Committee) following the later of: (I) the date the Participant retires from active employment, or (II) the date otherwise specified in the Participant's Deferral Election. For purposes of this Section 5.1(a), a Participant "retires from active employment" if:

(i) the Participant Separates from Service with the Company or an affiliate after having attained age 65; or

(ii) the Participant Separates from Service after having attained age 55 with ten years of service (as would be determined under the 401(k) Plan) or an affiliate.

The foregoing notwithstanding, in any case where the Participant is a Specified Employee, payment of amounts in the Participant's vested Accounts under this Section 5.1(a) on account of the Specified Employee's Separation from Service shall be deferred until the earlier of (x) first day of the seventh month following the Participant's Separation from Service (without regard to whether the Participant is reemployed on that date), or (y) the date of the Participant's death, subject to any additional deferral of such payments as provided for in the Plan.

(b) Timing of Distributions – Participant's Death.

(i) If a Participant dies before the full distribution of the Participant's Accounts under this Article V, any deferred amounts that are not vested and have not previously been forfeited shall become 100% vested. Unless the Participant had commenced receiving installment payments, as soon as practicable after the Participant's death, all remaining amounts credited to the Participant's Accounts shall be paid in a single lump sum payment to the Participant's named Beneficiary (or Beneficiaries). In the absence of any Beneficiary designation, payment shall be made to the personal representative, executor or administrator of the Participant's estate. Beneficiary designations may be changed by a Participant at any time without the consent of the Participant's Spouse or any prior Beneficiary.

(ii) If a Participant dies after having commenced to receive installment payments pursuant to a scheduled distribution election, the Participant's Beneficiary shall receive the remaining installment payments as said payments become due under the scheduled distribution option elected by the Participant.

(c) Timing of Distributions – Participant's Disability. Notwithstanding anything in the Plan to the contrary, if a Participant becomes Disabled, any deferred amounts that are not vested and have not previously been forfeited shall become 100% vested. Notwithstanding anything in a Participant's Deferral Election to the contrary with respect to payment commencement, as soon as practicable after the Participant becomes Disabled, all remaining amounts credited to the Participant's Accounts shall be paid or commence to be paid to the Participant in the form of distribution elected by the Participant in the Participant's Deferral Election. Such distribution shall be made only if the Committee, taking into account the type of factors taken into account in the event of a hardship under Section 5.1(e), in its sole discretion, approves such request

(d) Scheduled Distribution. As a part of the Participant's Deferral Election with respect to scheduled distributions, a Participant may elect to receive a lump sum distribution or annual installments (over 2, 3, 4 or 5 years, as elected by the Participant) equal to all or any part of the vested balance of the Participant's Accounts to be paid (or commence to be paid) at a scheduled distribution date, subject to the timing requirements in Section 5.1(a) and the limitations of Section 3.7. For these purposes, the amount of each installment payment shall be determined by multiplying the value of the Participant's remaining vested Accounts subject to the scheduled distribution election by a fraction, the numerator of which is one (1) and the denominator of which is the number of calendar years remaining in the installment period. These scheduled distributions are generally available only for distributions that are scheduled to commence to be paid while a Participant is employed by the Company. If a Participant incurs a

Separation from Service before commencing receipt of scheduled distributions, the timing requirements of Section 5.1(a) shall apply (which requirements provide for payment upon Separation from Service, unless the Participant has attained retirement age, in which case a later distribution date may apply). If a Participant Separates from Service while receiving scheduled installment payments, such installment payments shall continue to be paid in the same form of distribution, subject to the Participant's right to accelerate the remaining payments in accordance with Section 5.1(e).

(e) Hardship Distribution. At any time prior to the time an amount is otherwise payable hereunder, an active Participant may request a distribution of all or a portion of any vested amounts credited to the Participant's Accounts on account of the Participant's financial hardship, subject to the following requirements:

(i) Such distribution shall be made, in the sole discretion of the Committee, if the Participant has incurred an unforeseeable emergency. The Committee shall consider any requests for payment under this Section 5.1(e) in accordance with the standards of interpretation described in Code Section 409A and the regulations and other guidance thereunder.

(ii) For purposes of this Plan, an "unforeseeable emergency" shall be limited to a severe financial hardship to the Participant resulting from an illness or accident of the Participant, the Participant's Spouse, the Participant's Beneficiary, or of a Participant's dependent (as defined in Code Section 152, without regard to Code Sections 152(b)(1), (b)(2), and (d)(1)(B)); loss of the Participant's property due to casualty (including the need to rebuild a home following damage to a home not otherwise covered by insurance, for example, not as a result of a natural disaster); the need to pay for the funeral expenses of the Participant's Spouse, the Participant's Beneficiary, or the Participant's dependent (as defined in Code Section 152, without regard to Code Sections 152(b)(1), (b)(2), and (d)(1)(B)); or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the Participant. Whether a Participant is faced with an unforeseeable emergency will be determined based on the relevant facts and circumstances of each case and be based on the information supplied by the Participant, in writing, pursuant to the procedure prescribed by the Committee. In addition to the foregoing, distributions under this subsection shall not be allowed for purposes of sending a child to college or the Participant's desire to purchase a home or other residence. In all events, distributions made on account of an unforeseeable emergency are limited to the extent reasonably needed to satisfy the emergency need (which may include amounts necessary to pay any federal, state, local, or foreign income taxes or penalties reasonably anticipated to result from the distribution).

(iii) Notwithstanding the foregoing, distribution on account of an unforeseeable emergency under this subsection may not be made to the extent that such emergency is or may be relieved:

(A) through reimbursement or compensation by insurance or otherwise,

(B) by liquidation of the Participant's assets, to the extent the liquidation of such assets would not itself cause severe financial hardship, or

(C) by cessation of deferrals under the Plan.

(iv) All distributions under this subsection shall be made in cash as soon as practicable after the Committee has approved the distribution and that the requirements of this subsection have been met.

(v) The minimum permitted hardship distribution shall be $3,000.

Section 5.2 Form of Distribution.

(a) General. Except as otherwise provided in this Article VI, all amounts payable from a Participant's Accounts shall be paid in one of the forms of distribution described in this Section 5.2, as elected by the Participant in a Deferral Election or as modified by the Participant in accordance with Section 5.2(d) below. Notwithstanding the foregoing, a Participant who is eligible to receive Company Non-Elective Credits hereunder shall receive such amounts in the form of a single lump sum distribution in cash; no other forms of distribution are available for receiving such amounts. Any Participant who fails to elect a form of distribution with respect to any deferral amount (or any compensation type) shall be deemed to have elected to receive such amounts in the form of a single lump sum distribution in cash.

(b) Lump Sum Distribution. A Participant may elect, in accordance with such procedures established by the Committee, to have any vested deferral amounts credited to his Accounts paid in the form of a single lump sum distribution at the time otherwise required or permitted under the Plan.

(c) Annual Installment Distributions. A Participant may elect, in accordance with such procedures established by the Committee, to have any vested deferral amounts credited to his Accounts paid at the time otherwise required or permitted in the form of annual installments over a 5 or 10-year period commencing at the time otherwise required or permitted under the Plan and paid annually thereafter for the remainder of the installment

period. For these purposes, the amount of each installment payment shall be determined by multiplying the value of the Participant's remaining vested Accounts by a fraction, the numerator of which is one (1) and the denominator of which is the number of calendar years remaining in the installment period.

(d) Change in Form. In any case where a Participant wishes to change a form of distribution from what was previously in effect with respect to any deferred amounts credited to a Participant's Accounts, in addition to the limitations under Section 3.7, the following requirements must be met:

(i) The election will not take effect until at least twelve months after the date on which the election is made and will not be recognized with respect to payments that would otherwise have commenced during such twelve-month period;

(ii) Except for payments made on account of a Participant's death or financial hardship under Section 5.1(e), the payment with respect to which such election is made (or the first payment, in the case of installment payments) shall be deferred for a period of not less than five years from the date such payment would otherwise have been made;

(iii) Any election related to payments that would otherwise have commenced as of a specified time, as opposed to the Participant's Separation from Service, may not be made less than twelve months prior to the date on which such payments would otherwise have commenced; and

(iv) The election will not take effect if the payment (or the first payment, in the case of installment payments) would be scheduled to commence after the later of the date the Participant reaches age 70 or the date the Participant retires from active employment.

ARTICLE VI
General Provisions

Section 6.1 Unsecured Promise to Pay.

(a) The Company shall make no provision for the funding of any amounts payable hereunder that (i) would cause the Plan to be a funded plan for purposes of Section 404(a)(5) of the Code, or Title I of ERISA, or (ii) would cause the Plan to be other than an "unfunded and unsecured promise to pay money or other property in the future" under Treasury Regulations § 1.83-3(e); and the Company shall have no obligation to make any arrangement for the accumulation of funds to pay any amounts under this Plan. Subject to the restrictions of the preceding sentence, the Company, in its sole discretion, may establish one or more grantor trusts described in Treasury

Regulations § 1.677(a)-1(d) to accumulate funds to pay amounts under this Plan, provided that the assets of such trust(s) shall be required to be used to satisfy the claims of the Company's general creditors in the event of the Company's bankruptcy or insolvency.

Section 6.2 Plan Unfunded.

(a) In the event that the Company (or one of its subsidiaries) shall decide to establish an advance accrual reserve on its books against the future expense of payments hereunder, such reserve shall not under any circumstances be deemed to be an asset of this Plan but, at all times, shall remain a part of the general assets of the Company (or such subsidiary), subject to claims of the Company's (or such subsidiary's) creditors. A person entitled to any amount under this Plan shall be a general unsecured creditor of the Company (or the Participant's employer subsidiary) with respect to such amount. Furthermore, a person entitled to a payment or distribution with respect to any amounts credited to Participant Accounts shall have a claim upon the Company (or the Participant's employer subsidiary) only to the extent of the vested balance(s) credited to such Accounts.

Section 6.3 Designation of Beneficiary.

(a) The Participant's Beneficiary under this Plan with respect to amounts credited to the Participant's Accounts hereunder shall be the person designated to receive benefits on account of the Participant's death on a form provided by the Committee.

Section 6.4 Expenses.

(a) All commissions, fees and expenses that may be incurred in operating the Plan and any related trust(s) established in accordance with the Plan will be paid by the Company.

Section 6.5 Non-Assignability.

(a) Participants, their legal representatives and their Beneficiaries shall have no right to anticipate, alienate, sell, assign, transfer, pledge or encumber their interests in the Plan, nor shall such interests be subject to attachment, garnishment, levy or execution by or on behalf of creditors of the Participants or of their Beneficiaries.

Section 6.6 Employment/Participation Rights.

(a) Nothing in the Plan shall interfere with or limit in any way the right of the Company to terminate any Participant's employment at any time, nor confer upon any Participant any right to continue in the employ of the Company.

(b) Nothing in the Plan shall be construed to be evidence of any agreement or understanding, express or implied, that the Company will continue to employ a Participant in any particular position or at any particular rate of remuneration.

(c) No employee shall have a right to be selected as a Participant, or, having been so selected, to be continued as a Participant.

(d) Nothing in this Plan shall affect the right of a recipient to participate in and receive benefits under and in accordance with any pension, profit-sharing, deferred compensation or other benefit plan or program of the Company.

Section 6.7 Severability.

(a) If any particular provision of the Plan shall be found to be illegal or unenforceable for any reason, the illegality or lack of enforceability of such provision shall not affect the remaining provisions of the Plan, and the Plan shall be construed and enforced as if the illegal or unenforceable provision had not been included.

Section 6.8 No Individual Liability.

(a) It is declared to be the express purpose and intention of the Plan that no liability whatsoever shall attach to or be incurred by the shareholders, officers, or directors of the Company (or any affiliate) or any representative appointed hereunder by the Company (or any affiliate), under or by reason of any of the terms or conditions of the Plan.

Section 6.9 Tax and Other Withholding.

(a) The Company shall have the right to deduct from any payment made under the Plan any amount required by federal, state, local, or foreign law to be withheld with respect to such payment. The Company shall also have the right to withhold from other current salary or wages any amount required by federal, state, local, or foreign law to be withheld with respect to compensation deferred under the Plan at any time prior to payment of such deferred compensation, or if such other current salary or wages are insufficient to satisfy such withholding requirement, to require the Participant to pay the Company such amount required to be withheld to the extent such requirement cannot be satisfied through withholding on other current salary or wages. Additionally, should deferrals under this Plan cause there to be insufficient current salary or wages for purposes of withholding taxes or other amounts required by federal, state, local, or foreign law to be withheld from current salary or wages, the Company shall require the Participant to pay the Company such amount required to be withheld to the extent such requirement cannot be satisfied through withholding on other current salary or wages.

Section 6.10 Applicable Law.

(a) This Plan shall be governed by and construed in accordance with the laws of the State of New Jersey except to the extent governed by applicable federal law.

Section 6.11 Incompetency.

(a) Any person receiving or claiming benefits under the Plan shall be conclusively presumed to be mentally competent and of age until the Committee receives written notice, in a form and manner acceptable to it, that such person is incompetent or a minor, and that a guardian, conservator, or other person legally vested with the care of his estate has been appointed. If the Committee finds that any person to whom a benefit is payable under the Plan is unable to properly care for his or her affairs, or is a minor, then any payment due (unless a prior claim therefor shall have been made by a duly appointed legal representative) may be paid to the Spouse, a child, a parent, or a brother or sister, or to any person deemed by the Committee to have incurred expense for the care of such person otherwise entitled to payment. If a guardian or conservator of the estate of any person receiving or claiming benefits under the Plan shall be appointed by a court of competent jurisdiction, payments shall be made to such guardian or conservator provided that proper proof of appointment is furnished in a form and manner suitable to the Committee. Any payment made under the provisions of this Section shall be a complete discharge of liability therefor under the Plan.

Section 6.12 Notice of Address.

(a) Any payment made to a Participant or a designated Beneficiary at the last known post office address of the distributee on file with the Committee, shall constitute a complete acquittance and discharge of any obligations of the Company under this Plan, unless the Committee shall have received prior written notice of any change in the condition or status of the distributee. Neither the Committee, the Company nor any director, officer, or employee of the Company shall have any duty or obligation to search for or ascertain the whereabouts of a Participant or a designated Beneficiary.

ARTICLE VII
Administration

Section 7.1 Committee.

(a) The Plan shall be administered by the Committee. The Committee shall have the exclusive right to interpret the Plan (including questions of construction and interpretation) and the decisions, actions and records of the Committee shall be conclusive and binding upon the Company and all persons having or claiming to have any right or interest in or under the Plan. The Committee may delegate to such officers, employees or departments of the Company, or to service-providers or other persons, such authority, duties, and responsibilities of the Committee as it, in its sole discretion, considers necessary or appropriate for the proper and efficient operation of the Plan, including, without limitation, (i) interpretation of the Plan, (ii) approval and payment of claims, and (iii) establishment of procedures for administration of the Plan.

Section 7.2 Claims Procedure.

(a) Filing of Claim. Any Participant or beneficiary under the Plan may file a written claim for a Plan benefit with the Committee or with a person named by the Committee to receive claims under the Plan.

(b) Notice of Denial of Claim. In the event of a denial or limitation of any benefit or payment due to or requested by any Participant or beneficiary under the Plan ("claimant"), the claimant shall be given a written notification, including electronic communication, containing specific reasons for the denial or limitation of the benefit. The written notification shall contain specific reference to the pertinent Plan provisions on which the denial or limitation of the benefit is based. In addition, it shall contain a description of any other material or information necessary for the claimant to perfect a claim, and an explanation of why such material or information is necessary. The notification shall further provide appropriate information as to the steps to be taken if the claimant wishes to appeal the denial or limitation of benefit and submit a claim for review. This written notification shall be given to a claimant within ninety (90) days after receipt of the claim by the Committee, provided that where special circumstances require an extension of time for processing the decision, it may be postponed on written notice to the claimant (prior to the expiration of the initial ninety (90)-day period) for an additional ninety (90) days, but in no event shall the decision be rendered more than one hundred eighty (180) days after the receipt of such request for review, and such notice shall indicate the special circumstances which make the postponement appropriate.

(c) Right of Review. In the event of a denial or limitation of the claimant's benefit, the claimant or the claimant's duly authorized representative shall be permitted to review pertinent documents free of charge upon request and to submit to the Committee issues and comments in writing. In addition, the claimant or the claimant's duly authorized representative may make a written request for a full and fair review of the claim and its denial by the Committee; provided, however, that such written request must be received by the Committee within sixty (60) days after receipt by the claimant of written notification of the denial or limitation of the claim.

(d) Decision of Review. A decision shall be rendered by the Committee within sixty (60) days after the receipt of the request for review, provided that where special circumstances require an extension of time for processing the decision, it may be postponed on written notice to the claimant (prior to the expiration of the initial sixty (60)-day period) for an additional sixty (60) days, but in no event shall the decision be rendered more than one hundred twenty (120) days after the receipt of such request for review, and such notice shall indicate the special circumstances which make the postponement appropriate. Any decision by the Committee shall be furnished to the claimant in writing and shall set forth the specific reasons for the decision, the specific plan provisions on which the decision is based, a statement that the claimant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relating to his or her claim for benefits, and a statement of the claimant's right to bring a civil action under Section 502(a) of ERISA.

Section 7.3 Plan to Comply With Code Section 409A.

(a) Notwithstanding any provision to the contrary in this Plan, each provision in this Plan shall be interpreted to permit the deferral of compensation in accordance with Code Section 409A and any provision that would conflict with such requirements shall not be valid or enforceable.

ARTICLE VIII
Amendment, Termination and Effective Date

Section 8.1 Amendment of the Plan.

(a) Subject to Section 8.3, the Plan may be wholly or partially amended or otherwise modified at any time by written action of the Board of Directors. Notwithstanding the foregoing, the Board of Directors hereby grants to the Committee the authority to approve and adopt amendments to the Plan, provided that such amendments will not materially increase the Company's costs related to providing benefits under the Plan or materially affect the benefits of participants in the Plan.

Section 8.2 Termination of the Plan.

(a) Subject to the provisions of Section 8.3, the Plan may be terminated at any time by written action of the Board of Directors.

Section 8.3 No Impairment of Benefits.

(a) Notwithstanding the provisions of Sections 8.1 and 8.2, no amendment to or termination of the Plan shall reduce the amount credited to any Participant's Accounts hereunder.

Section 8.4 Effective Date.

(a) The Plan is effective as of April 1, 2022.

* * *

Embecta hereby adopts this Embecta Deferred Compensation Plan, effective as of April 1, 2022.

IN WITNESS WHEREOF, this Plan has been executed this 1 day of April, 2022.

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[____]
[_____]

embecta completes spin-off from BD and lists on NASDAQ as a global leader in diabetes care

100-year legacy in insulin delivery

Largest producer of diabetes injection devices in the world

Over 2,000 employees globally serving more than 100 countries.

FRANKLIN LAKES, N.J., April 1, 2022 — Embecta Corp. (embecta) (NASDAQ: EMBC) and its employees around the world celebrate its launch today as one of the largest global pure-play diabetes care companies. The leadership team and other key members of the organization will be at the NASDAQ Stock Market to ring the closing bell.

embecta's history in the diabetes care category dates back to 1924 and the development of the world's first specialized insulin syringe. Today, it is the leading producer of diabetes injection devices, manufacturing approximately 8 billion injection devices annually for an estimated 30 million patients.

"We are building on a nearly 100-year legacy as pioneers in diabetes care by becoming an independent public company," said Devdatt "Dev" Kurdikar, CEO of embecta. "As the largest producer of diabetes injection devices in the world, embecta is an established leader with unmatched manufacturing expertise, global distribution and commercial capabilities in over 100 countries. We are now better positioned to drive shareholder value and accelerate growth by investing in both organic and inorganic innovation, which will help give people living with diabetes the knowledge and tools they need every day. We are thankful for our 2,000 employees, who are highly motivated and work tirelessly each day to improve the lives of people living with diabetes, and we are excited about the opportunities that lie ahead."

embecta's core business is driven by the chronic demand for insulin. Right now, approximately 1 in 10 individuals worldwide have diabetes[1] and rates of diagnosis, treatment, and care are rising, especially in emerging markets, due to changing demographics, lifestyle factors, and increased access to care. Left untreated, people with diabetes face a host of medical complications and co-morbidities. embecta is an integral player in delivering treatment to people with diabetes worldwide and it is the Company's vision to help people live a life unlimited by diabetes.

As a standalone public company, embecta will now have the strategic, operational, and financial independence to optimize its product portfolio, and achieve more efficient resource and capital allocation to address the significant unmet need for chronic diabetes care. As an independent company, embecta has an opportunity to serve the large and growing insulin delivery market, which embecta estimates to be $6 billion to $8 billion per year.

With approximately 800,000 sq ft of manufacturing space across the United States, Ireland, and China, embecta is the global market leader in pen needles.

A live webcast of the closing bell will be available on the NASDAQ Stock Exchange website today at 4:00 p.m. EST.

About embecta

embecta, formerly part of BD (Becton, Dickinson and Company), is one of the largest pure-play diabetes care companies in the world, leveraging its nearly 100-year legacy in insulin delivery to empower people with diabetes to live their best life through innovative solutions, partnerships and the passion of more than 2,000 employees around the globe. For more information, visit embecta.com.

1 (International Diabetes Federation)

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Forward-Looking Statements

This press release contains certain forward-looking statements (as defined under Federal securities laws) regarding embecta's future prospects and performance. All such statements are based upon current expectations of embecta and involve a number of risks and uncertainties. With respect to forward-looking statements contained herein, a number of factors could cause actual outcomes to vary materially. We do not intend to update any forward-looking statements to reflect events or circumstances after the date hereof except as required by applicable laws or regulations.

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