# 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): December 11, 2022**

# Amgen Inc.

**(Exact name of registrant as specified in its charter)**

| **Delaware** | **001-37702** | **95-3540776** |
|---|---|---|
| **(State or other jurisdiction of incorporation)** | **(Commission File Number)** | **(IRS Employer Identification No.)** |
| **One Amgen Center Drive Thousand Oaks California** | | |
| **(Address of principal executive offices)** | | **91320-1799 (Zip Code)** |

**Registrant's telephone number, including area code:**
**(805) 447-1000**

**Not Applicable**
**(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:

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

Securities Registered under Section 12(b) of the Act:

| **Title of each class** | **Trading Symbol(s)** | **Name of each exchange on which registered** |
|---|---|---|
| **Common Stock $0.0001 par value** | **AMGN** | **The Nasdaq Stock Market LLC** |
| **2.000% Senior Notes Due 2026** | **AMGN26** | **The Nasdaq Stock Market LLC** |

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

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

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

*Transaction Agreement*

On December 12, 2022, Amgen Inc., a Delaware corporation ("Amgen"), issued an announcement (the "Rule 2.7 Announcement") pursuant to Rule 2.7 of the Irish Takeover Panel Act 1997, Takeover Rules, 2022 (the "Irish Takeover Rules") disclosing that the respective boards of directors of Amgen and Horizon Therapeutics plc, an Irish public limited company ("Horizon"), had reached an agreement on the terms of a cash offer for Horizon by Pillartree Limited, a newly formed private limited company wholly owned by Amgen ("Acquirer Sub"), pursuant to which Acquirer Sub will acquire the entire issued and to be issued ordinary share capital of Horizon (such proposed offer, the "Acquisition"), for $116.50 in cash per ordinary share (the "Consideration"), nominal value $0.0001 per share, of Horizon (each, a "Horizon Share"). The Acquisition has been unanimously recommended by the board of directors of Horizon (the "Horizon Board").

In connection with the Acquisition, Amgen, Acquirer Sub and Horizon entered into a Transaction Agreement, dated as of December 11, 2022 (the "Transaction Agreement"), pursuant to which the Acquisition will be effected by means of a court-sanctioned scheme of arrangement (the "Scheme") under Irish law. Amgen reserves the right, subject to the terms of the Transaction Agreement, to elect to implement the Acquisition by way of a takeover offer (as such term is defined in the Irish Takeover Rules) rather than the Scheme. As a result of the Scheme, Horizon will become a wholly owned subsidiary of Amgen.

Pursuant to the Transaction Agreement, at the effective time of the Acquisition (the "Effective Time"), each outstanding equity award with respect to Horizon Shares (other than certain restricted stock unit awards denominated in Horizon Shares ("Horizon RSUs")) will, whether vested or unvested, be cancelled and converted into the right to receive the Consideration (less the applicable exercise price in the case of options). Other than any Horizon RSUs granted to non-employee directors or former service-providers of Horizon as of the completion date for the Acquisition (which Horizon RSUs will be canceled and converted into the right to receive in cash the product of the Consideration, *multiplied* by the total number of Horizon Shares subject to such Horizon RSU immediately prior to the Effective Time), all Horizon RSUs will be canceled and converted into the a restricted stock unit (each, an "Amgen RSU") denominated in shares of common stock of Amgen, par value $0.0001 per share ("Amgen Common Stock"), with the number of shares of Amgen Common Stock subject to each such Amgen RSU equal to the product (rounded down to the nearest whole number) of (i) the number of Horizon Shares subject to such Horizon RSU immediately prior to the Effective Time *multiplied* by (ii) (x) the Consideration divided by (y) the volume weighted average of the per share closing price of Amgen Common Stock on the Nasdaq (as reported in the Eastern Edition of *The Wall Street Journal*, or, if not reported thereby, another authoritative source) for five trading days ending on the second business day prior to the completion of the Acquisition.

*Conditions to Completion of the Acquisition*

The completion of the Acquisition is subject to customary conditions, including, among other things, the approval of the Scheme by Horizon shareholders, the sanction of the Scheme by the Irish High Court (the "Court"), the registration of the Court Order (as defined in the Transaction Agreement) with the Registrar of Companies in Dublin, Ireland and the receipt of required antitrust clearances in the United States, Austria and Germany and the receipt of required foreign investment clearances in France, Germany, Denmark and Italy. The conditions to the completion of the Acquisition are set out in full in Appendix 3 to the Rule 2.7 Announcement (the "Conditions Appendix"). Amgen expects that, subject to the satisfaction or waiver of all conditions set forth in the Conditions Appendix, the Acquisition will be completed in the first half of 2023.

*Representations and Warranties; Covenants*

The Transaction Agreement contains customary representations and warranties with respect to Amgen, Acquirer Sub and Horizon. The Transaction Agreement also contains customary covenants, including, among others, covenants requiring Horizon to use commercially reasonable efforts to conduct its business in the ordinary course during the period between execution of the Transaction Agreement and the completion of the Acquisition.

The Transaction Agreement also requires Horizon not to, directly or indirectly, among other things, (i) solicit, initiate or take any action or knowingly facilitate or knowingly encourage the submission of any Company Alternative Proposal (as defined in the Transaction Agreement), (ii) enter into, continue or participate in any discussions or negotiations regarding such an offer or proposal with, or furnish any information relating to Horizon or any of its subsidiaries to, or otherwise cooperate in any way with, or knowingly assist, participate in, knowingly facilitate or knowingly encourage any effort by, any person that would reasonably be expected to seek to make, or has made, a Company Alternative Proposal, (iii) effect a Company Change of Recommendation (as defined in the Transaction Agreement), (iv) take any action to make anti-takeover laws and regulations inapplicable to third parties or any Company Alternative Proposal, (v) waive or release third parties from certain standstill agreements or provisions entered into in respect of any Company Alternative Proposal or (vi) enter into any agreement providing for or relating to a Company Alternative Proposal. The Transaction Agreement contains a customary "fiduciary out" provision that allows Horizon, under certain specified circumstances, to furnish information to, or engage in negotiations or discussions with, third parties with respect to a Company Alternative Proposal if Horizon complies with certain notice and other requirements (including affording Amgen certain matching rights) and the Horizon Board determines in good faith (after consultation with its outside legal counsel and financial advisor) that (x) such Company Alternative Proposal is a Company Superior Proposal (as defined in the Transaction Agreement) and (y) its failure to take such actions would be inconsistent with its fiduciary duties under applicable law. Subject to certain exceptions, the Transaction Agreement also requires Horizon to hold an extraordinary general meeting of Horizon shareholders and requires the Horizon Board to recommend approval of the Acquisition to the Horizon shareholders at such extraordinary general meeting.

Under the Transaction Agreement, each of Amgen and Horizon has agreed to use its respective reasonable best efforts to take all actions and do all things necessary, proper or advisable to complete the Acquisition and the other transactions contemplated by the Transaction Agreement. In furtherance of the foregoing, each of Amgen, Acquirer Sub and Horizon has agreed to use its reasonable best efforts to promptly take all actions and steps requested or required by any governmental entity as a condition to grant required regulatory approvals for the Acquisition, subject to the limitation that Amgen is not obligated to take certain specified actions (x) with respect to any assets, categories of assets or portions of any business of Amgen or any of its affiliates, (y) with respect to certain items contained in the disclosure schedules to the Transaction Agreement, or (z) with respect to assets, categories of assets or portions of any business of Horizon or its subsidiaries, if such action, individually or in the aggregate, would reasonably be expected to be material to Horizon and its subsidiaries, taken as a whole.

*Termination and Termination Fees*

The Transaction Agreement may be terminated and the transactions contemplated by the Transaction Agreement, including the Acquisition, may be abandoned at any time prior to the Effective Time by mutual written consent of Amgen and Horizon. The Transaction Agreement also contains certain customary termination rights, including, among others and subject to certain conditions, the right of either party to terminate the Transaction Agreement if (i) the requisite Horizon shareholder approvals are not obtained at the extraordinary general meeting of Horizon shareholders, (ii) the Scheme has not become effective by 5:00 p.m., New York City time, on June 12, 2023, which period will be automatically extended to September 12, 2023 and further to December 12, 2023 (as may be so extended, the "End Date") if the only condition remaining to be satisfied (other than those conditions that by their nature cannot be satisfied until the completion of the Acquisition) relates to regulatory approvals, (iii) the other party breaches or fails to perform in any material respect any of its covenants or other agreements or any of the other party's representations or warranties are inaccurate and such breach, failure to perform or inaccuracy would result in certain of the conditions set forth in the Conditions Annex not being satisfied, subject to a cure period, (iv) there is in effect any law or final and non-appealable order (other than under any antitrust laws or foreign investment laws of any jurisdiction that is not (x) certain applicable non-U.S. antitrust laws or foreign investment laws or (y) under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "HSR Act")) that permanently restrains, enjoins or otherwise prohibits the completion of the Acquisition or (v) the Court declines or refuses to sanction the Scheme, unless Amgen and Horizon agree in writing to appeal the decision of the Court. Horizon also has the right, prior to the receipt of the requisite Horizon shareholder approvals, to terminate the Transaction Agreement to accept a Company Superior Proposal in certain circumstances, and Amgen also has the right, prior to receipt of the requisite Horizon shareholder approvals, to terminate the Transaction Agreement if a Company Change of Recommendation occurs.

Horizon has agreed to pay to Amgen, in certain circumstances, an amount equal to all documented, specific and quantifiable third-party costs and expenses incurred, directly or indirectly, by Amgen or its subsidiaries, or on their behalf, for the purposes of, in preparation for, or in connection with the Acquisition. The maximum amount payable by Horizon to Amgen in such circumstances is an amount equal to 1% of the aggregate value of the total Consideration to be paid in the Acquisition.

The Transaction Agreement also provides that Amgen will be required to pay Horizon a termination fee of $974,415,054 in connection with the termination of the Transaction Agreement if the Transaction Agreement is terminated (i) by Amgen or Horizon due to the End Date having occurred if, on the date of such termination, each of the conditions to completion of the Acquisition have been satisfied other than those related to regulatory approvals, the sanctioning of the Scheme or those conditions that may only be satisfied at the completion of the Acquisition, (ii) by Amgen or Horizon if at the time of such termination there is in effect any law or final and non-appealable order that permanently restrains, enjoins or otherwise prohibits the completion of the Acquisition pursuant to the HSR Act or certain applicable non-U.S. antitrust laws or foreign investment laws, or (iii) by the Company pursuant to Amgen's breach of its covenants related to regulatory approvals pursuant to the HSR Act or certain applicable non-U.S. antitrust laws or foreign investment laws.

The foregoing descriptions of the Transaction Agreement and the Conditions Appendix do not purport to be complete and are subject to, and qualified in their entireties by, the full text of the Transaction Agreement and the Conditions Appendix, copies of which are filed as Exhibit 2.1 and Exhibit 2.2, respectively, hereto and are incorporated by reference into this Item 1.01.

The Transaction Agreement has been included herewith pursuant to the applicable rules and regulations of the U.S. Securities and Exchange Commission the ("SEC") to provide investors with information regarding its terms. It is not intended to provide any other factual information about Amgen, Acquirer Sub, Horizon or their respective subsidiaries or affiliates or to modify or supplement any factual disclosures about Amgen or Horizon included in their respective public reports filed with the SEC. The representations, warranties and covenants contained in the Transaction Agreement were made only for purposes of the Transaction Agreement and as of the specific dates therein, were solely for the benefit of the parties to the Transaction Agreement, may be subject to limitations, qualifications or other particulars agreed upon by the contracting parties, including being qualified by confidential disclosures, and were made for the purposes of allocating contractual risk among the parties to the Transaction Agreement instead of establishing these matters as facts, and may be subject to standards of materiality applicable to the contracting parties that differ from those applicable to investors. Investors are not third-party beneficiaries under the Transaction Agreement and should not rely on the representations, warranties and covenants or any descriptions thereof as characterizations of the actual state of facts or condition of the parties thereto or any of their respective subsidiaries or affiliates. Moreover, information concerning the subject matter of representations and warranties may change after the date of the Transaction Agreement, which subsequent information may or may not be fully reflected in public disclosures. The Transaction Agreement should not be read alone, but should instead be read in conjunction with the other information regarding Amgen, Acquirer Sub and Horizon and the transactions contemplated by the Transaction Agreement that will be contained in, incorporated by reference into or attached as an annex to the proxy statement (the "Proxy Statement") that Horizon will file in connection with the transactions contemplated by the Transaction Agreement as well as in the other filings that each of Amgen and Horizon will make with the SEC.

*Bridge Credit Facility*

On December 12, 2022 (the "Effective Date"), Amgen, Citibank, N.A. ("Citibank"), as administrative agent, Bank of America, N.A. ("Bank of America"), as syndication agent, and Citibank and Bank of America as lead arrangers and book runners entered into a Bridge Credit Agreement (the "Bridge Credit Agreement"). The Bridge Credit Agreement provides for a $28.5 billion bridge credit facility (the "Bridge Credit Facility") that is available to finance the payment of the Consideration in connection with the Acquisition, the repayment of certain existing indebtedness of Horizon, and the payment of fees and expenses related to the Acquisition. The commitments under the Bridge Credit Facility will be reduced by the net cash proceeds received by Amgen or its subsidiaries in connection with debt and equity issuances and non-ordinary course asset dispositions, with certain exceptions specified in the Bridge Credit Agreement. Advances under the Bridge Credit Facility will be available after the Effective Date, subject to the satisfaction of certain conditions set forth in the Bridge Credit Agreement and will mature on the date that is 364 days after the date on which the first advance is made under the Bridge Credit Facility. The commitments under the Bridge Credit Facility, unless previously terminated, terminate on the earlier of (i) the date on which the Acquisition has been completed and the other purposes of the Bridge Credit Facility have been achieved without the making of any advances under the Bridge Credit Facility and (ii) the time after certain mandatory cancellation events occur, including the abandonment of the Acquisition.

Advances under the Bridge Credit Agreement will bear interest at an annual rate of, at Amgen's option, either (i) term SOFR plus 0.10%, plus between 0.875% and 2.125%, depending on the rating of our senior long-term unsecured debt and the number of days elapsed between the initial funding day and the day of determination, or (ii) the highest of (A) Citibank's base commercial lending rate, (B) the overnight federal funds rate plus ½ of 1.00% and (C) one-month adjusted term SOFR plus 1.00%, plus between 0.000% and 1.125%, depending on the rating of our senior long-term unsecured debt and the number of days elapsed between the initial funding day and the day of determination. We are also required to pay, commencing on the 90th day after the Effective Date, a ticking fee of 0.125% per annum that will accrue on the aggregate undrawn commitments under the Bridge Credit Agreement.

The Bridge Credit Agreement contains customary affirmative and negative covenants that will apply after the Effective Date, including limitations on mergers, consolidations and sales of assets, limitations on liens and sales and leasebacks, limitations on transactions with affiliates and limitations on subsidiary indebtedness. In addition, the Bridge Credit Agreement requires maintenance of a minimum consolidated interest coverage ratio of EBITDA to total interest expense, each on a consolidated basis.

The foregoing description of the Bridge Credit Agreement does not purport to be complete and is subject to, and qualified in its entirety by, the full text of the Bridge Credit Agreement, a copy of which is filed as Exhibit 10.1 hereto and incorporated herein by reference into this Item 1.01.

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

On December 12, 2022, Amgen entered into the Bridge Credit Agreement as described under Item 1.01 above. The foregoing description of the Bridge Credit Agreement set forth in Item 1.01 and the full text of the Bridge Credit Agreement, a copy of which is filed as Exhibit 10.1 hereto, are incorporated herein by reference into this Item 2.03.

**Item 7.01 Regulation FD Disclosure.**

On December 12, 2022, Amgen issued the Rule 2.7 Announcement disclosing that the boards of directors of Amgen and Horizon had reached agreement on the terms of the Acquisition. A copy of the Rule 2.7 Announcement is furnished as Exhibit 99.1 hereto and is incorporated herein by reference into this Item 7.01.

The information contained in this Item 7.01 and Exhibit 99.1 hereto shall not be deemed to be "filed" for the purposes of Section 18 of the Securities Exchange Act of 1934 (the "Exchange Act"), or otherwise subject to the liabilities of such section, nor will such information be deemed incorporated by reference in any filing under the Securities Act of 1933, as amended, or the Exchange Act, except as may be expressly set forth by specific reference in such filing.

**Responsibility Statement Required by the Irish Takeover Rules**

The members of Amgen's board of directors accept responsibility for the information contained in this Current Report on Form 8-K other than that relating to Horizon, Horizon's subsidiaries and the members of Horizon's board of directors and members of their immediate families, related trusts and persons connected with them. To the best of the knowledge and belief of the members of Amgen's board of directors (who have taken all reasonable care to ensure such is the case), the information contained in this Current Report on Form 8-K for which they respectively accept responsibility is in accordance with the facts and does not omit anything likely to affect the import of such information.

**No Offer or Solicitation**

This Current Report on Form 8-K is for information purposes only and is not intended to and does not constitute, or form part of, an offer, invitation or the solicitation of an offer or invitation to purchase, otherwise acquire, subscribe for, sell or otherwise dispose of any securities, or the solicitation of any vote or approval in any jurisdiction, pursuant to the Acquisition or otherwise, nor shall there be any sale, issuance or transfer of securities in any jurisdiction in contravention of applicable law.

The Acquisition will be implemented by means of a Court sanctioned scheme of arrangement on the terms provided for in the scheme document (or, if the Acquisition is implemented by way of a takeover offer, the applicable takeover offer document), which will contain the full terms and conditions of the Acquisition, including details of how Horizon shareholders may vote in respect of the Acquisition. Any decision in respect of, or other response to, the Acquisition, should be made only on the basis of the information contained in the scheme document (or if the Acquisition is implemented by way of a takeover offer, the applicable takeover offer document).

**Dealing Disclosure Requirements of the Irish Takeover Laws**

Under the provisions of Rule 8.3(b) of the Irish Takeover Rules, if any person is, or becomes, 'interested' (directly or indirectly) in 1% or more of any class of 'relevant securities' of Horizon (including by means of an option in respect of, or a derivative referenced to, any such 'relevant securities'), that person must publicly disclose all 'dealings' in any 'relevant securities' of Horizon during the 'offer period,' by not later than 3:30 p.m. (E.T.) on the 'business day' following the date of the relevant transaction.

If two or more persons co-operate on the basis of any agreement either express or tacit, either oral or written, to acquire an 'interest' in 'relevant securities' of Horizon, they will be deemed to be a single person for the purpose of Rule 8.3 of the Irish Takeover Rules.

A disclosure table, giving details of the companies in whose 'relevant securities' and 'dealings' should be disclosed can be found on the Irish Takeover Panel's website at www.irishtakeoverpanel.ie.

'Interests' in securities arise, in summary, when a person has long economic exposure, whether conditional or absolute, to changes in the price of securities. In particular, a person will be treated as having an 'interest' by virtue of the ownership or control of securities, or by virtue of any option in respect of, or derivative referenced to, securities.

Terms in quotation marks are defined in the Irish Takeover Rules, which can be found on the Irish Takeover Panel's website. If you are in any doubt as to whether or not you are required to disclose a 'dealing' under Rule 8, please consult the Irish Takeover Panel's website at www.irishtakeoverpanel.ie or contact the Irish Takeover Panel on telephone number +353 1 678 9020.

**Forward-Looking Statements**

This Current Report on Form 8-K contains certain statements about Horizon and Amgen that are or may be forward-looking statements which include, but are not limited to, statements regarding expected timing, completion and effects of the Acquisition. These forward-looking statements are subject to the safe harbor provisions under the U.S. Private Securities Litigation Reform Act of 1995. All statements other than statements of historical facts included in this Announcement may be forward-looking statements. Without limitation, forward-looking statements often include words such as "expect," "anticipate," "outlook," "could," "target," "project," "intend," "plan," "believe," "seek," "estimate," "should," "may," "assume" and "continue" as well as variations of such words and similar expressions are intended to identify such forward-looking statements. Horizon's and Amgen's expectations and beliefs regarding these matters may not materialize. Actual outcomes and results may differ materially from those contemplated by these forward-looking statements as a result of uncertainties, risks, and changes in circumstances, including but not limited to risks and uncertainties related to: the ability of the parties to complete the transactions contemplated by the Transaction Agreement, including the Acquisition, in a timely manner or at all; the satisfaction (or waiver) of conditions to the consummation of the transactions contemplated by the Transaction Agreement, including the Acquisition, including with respect to the approval of Horizon's shareholders and required regulatory approvals; potential delays in consummating the transactions contemplated by the Transaction Agreement, including the Acquisition; the ability of Horizon and Amgen to timely and successfully achieve the anticipated strategic benefits, synergies or opportunities expected of the transactions contemplated by the Transaction Agreement, including the Acquisition; the successful integration of Horizon into Amgen subsequent to the consummation of the transactions contemplated by the Transaction Agreement, including the Acquisition and the timing of such integration; the impact of changes in global, political, economic, business, competitive, market and regulatory forces; the impact of health pandemics, including the COVID-19 pandemic, on Horizon's or Amgen's respective businesses; the occurrence of any event, change or other circumstance or condition that could give rise to the termination of the Transaction Agreement; adverse effects on the market price of Horizon's or Amgen's securities and on Horizon's or Amgen's operating results because of a failure to complete the Acquisition; the effect of the announcement or pendency of the Acquisition on Horizon's or Amgen's business relationships, operating results and business generally; costs related to the transactions contemplated by the Transaction Agreement, including the Acquisition; and the outcome of any legal proceedings that may be instituted against Horizon, Amgen, Acquirer Sub or any of their respective directors or officers related to the Transaction Agreement or the transactions contemplated by the Transaction Agreement, including the Acquisition. Additional risks and uncertainties that could cause actual outcomes and results to differ materially from those contemplated by the forward-looking statements are included under the caption "Risk Factors" and elsewhere in Horizon's most recent filings with the SEC, including its Quarterly Report on Form 10-Q for the quarter ended September 30, 2022, and Amgen's most recent filings with the SEC, including its Quarterly Report on Form 10-Q for the quarter ended September 30, 2022, and any subsequent reports on Form 10-K, Form 10-Q or Form 8-K filed with the SEC by Horizon or Amgen from time to time and available at www.sec.gov. These documents can be accessed on Horizon's web page at https://ir.horizontherapeutics.com/sec-filings or on Amgen's web page at https://investors.amgen.com/financials/sec-filings.

The forward-looking statements included in this Current Report on Form 8-K are made only as of the date hereof. Neither Amgen nor Horizon assumes any obligation to, and neither Amgen nor Horizon intends to, update these forward-looking statements, except as required by law.

**Item 9.01 Financial Statements and Exhibits.**

**(d) Exhibits.**

| Exhibit | Description |
|---|---|
| 2.1 | Transaction Agreement, dated as of December 11, 2022, by and among Amgen Inc., Pillartree Limited and Horizon Therapeutics plc.* |
| 2.2 | Appendix 3 to the Rule 2.7 Announcement, dated as of December 12, 2022 (Conditions Appendix). |

10.1 Bridge Credit Agreement, dated as of December 12, 2022, by and among Amgen Inc., Citibank, N.A., as administrative agent, Bank of America, N.A., as syndication agent, Citibank, N.A. and Bank of America, N.A., as lead arrangers and book runners, and the other banks party thereto.

99.1 Rule 2.7 Announcement, dated as of December 12, 2022.

104 Cover Page Interactive Data File (the cover page XBRL tags are embedded within the Inline XBRL document).

* Certain schedules have been omitted pursuant to Item 601(a)(5) of Regulation S-K. The registrant agrees to furnish supplementally a copy of any omitted schedule or exhibit to the SEC upon request.

**SIGNATURE**

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

AMGEN INC.

Date: December 12, 2022

By: /s/ Jonathan P. Graham
Name: Jonathan P. Graham
Title: Executive Vice President, General Counsel and Secretary

# TRANSACTION AGREEMENT

**dated as of December 11, 2022**

**among**

**AMGEN INC.**

**PILLARTREE LIMITED**

**and**

**HORIZON THERAPEUTICS PLC**

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# TRANSACTION AGREEMENT

**THIS TRANSACTION AGREEMENT** (this "***Agreement***"), dated as of December 11, 2022 is by and among **AMGEN INC.**, a Delaware corporation ("***Parent***"), **PILLARTREE LIMITED**, a private limited company incorporated under the laws of Ireland (with registration number: 730855) having its registered office at 6th Floor, 2 Grand Canal Square, Dublin 2, Ireland and a wholly owned Subsidiary of Parent ("***Acquirer Sub***"), and **HORIZON THERAPEUTICS PLC**, a public limited company incorporated under the laws of Ireland (with registration number 507678) having its registered office at 70 St. Stephen's Green, Dublin 2, D02 E2X4, Ireland (the "***Company***").

**A.** Parent has agreed to make a proposal to cause Acquirer Sub to acquire the Company on the terms set out in the Rule 2.7 Announcement;

**B.** This Agreement sets out certain matters relating to the conduct of the Acquisition that have been agreed by the Parties; and

**C.** The Parties intend that the Acquisition will be implemented by way of the Scheme, although this may, subject to the consent (where required) of the Irish Takeover Panel, be switched to a Takeover Offer in accordance with the terms set out in this Agreement.

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

## SECTION 1. INTERPRETATION

**1.1 Definitions**.

As used in this Agreement the following words and expressions have the following meanings:

"***Acquirer Sub***" has the meaning ascribed to it in the Preamble.

"***Acquisition***" means the proposed offer by Acquirer Sub to acquire the entire issued and to be issued, ordinary share capital of the Company in accordance with the terms of this Agreement, to be effected by means of the Scheme or, should Parent elect, and subject to the terms of this Agreement and the consent of the Irish Takeover Panel (if required), by means of a Takeover Offer, and, where the context admits, any subsequent revision, variation, extension or renewal thereof.

"***Acting in Concert***" has the meaning given to that term in the Irish Takeover Panel Act.

"***Affiliate***" means, in relation to any Person, any other Person that, directly or indirectly, controls, is controlled by, or is under common control with, such first person (as used in this definition, "***control***" means the possession, directly or indirectly, of the power to direct or cause the direction of management or policies of a Person, whether through the ownership of securities or partnership or other ownership interests, by Contract or otherwise and the terms "***controlled***" and "***controlling***" shall have correlative meanings).

"***Agreement***" has the meaning ascribed to it in the Preamble.

"***Alternative Financing***" has the meaning ascribed to it in Section 7.6(b).

"***Anti-Corruption Laws***" means the FCPA; the Anti-Kickback Act of 1986, the UK Bribery Act of 2010, the relevant Laws in Ireland relating to bribery or corruption including the Criminal Justice (Corruption Offences) Act 2018 of Ireland or any applicable Laws of similar effect, and the related regulations and published interpretations thereunder.

"***Antitrust Laws***" means the Sherman Act of 1890, the Clayton Act of 1914, the Federal Trade Commission Act of 1914, the HSR Act and all other federal, state and foreign applicable Laws in effect from time to time that are designed or intended to prohibit, restrict or regulate actions having the purpose or effect of monopolization or restraint of trade.

"***Balance Sheet***" has the meaning ascribed to it in Section 6.1(f).

"***Benefits Continuation Period***" has the meaning ascribed to it in Section 7.4(a).

"***Burdensome Condition***" has the meaning ascribed to it in Section 7.2(c).

"***Business Day***" means any day, other than a Saturday, Sunday or a day on which banks in Ireland or in New York are authorized or required by applicable Laws to be closed.

"***Cap***" means an amount equal to one percent of the aggregate value of the total Consideration payable with respect to the Company Shares in connection with the Acquisition (excluding, for clarity, any interest in such share capital of the Company held by Parent or any Concert Parties of Parent) as ascribed by the terms of the Acquisition as set out in the Rule 2.7 Announcement.

"***Change of Recommendation Termination***" has the meaning ascribed to it in Section 9.1(a)(iii)(B).

"***Claim Expenses***" has the meaning ascribed to it in Section 7.3(a).

"***Clearance Date***" means the Business Day next succeeding the date upon which the later occurring of (i) the Irish Takeover Panel confirming that (x) it has no comments on the Proxy Statement and/or the Scheme Document or (y) its comments on the Proxy Statement and/or the Scheme Document have been adequately responded to or resolved and (ii) in respect of the SEC, (x) the SEC review period has expired with no comments or (y) the SEC confirming that its comments on the Proxy Statement have been adequately responded to or resolved.

"***Clearances***" means all consents, clearances, approvals, permissions, licenses, variances, exemptions, authorizations, acknowledgements, permits, nonactions, Orders and waivers to be obtained from, and all registrations, applications, notices and filings to be made with or provided to, any Governmental Entity in connection with the implementation of the Scheme or the Acquisition.

"***Code***" means the United States Internal Revenue Code of 1986.

"***Company***" has the meaning ascribed to it in the Preamble.

"***Company Alternative Proposal***" means any bona fide proposal or offer (including non-binding proposals or offers) from any Person or Group, other than Parent, its controlled Affiliates or any of its Concert Parties, relating to any (i) direct or indirect acquisition (whether in a single transaction or a series of related transactions) of assets of the Company or any of its Subsidiaries (including equity securities of Subsidiaries) equal to 20% or more of the consolidated assets of the Company, or to which 20% or more of the revenues or earnings of the Company on a consolidated basis are attributable for the most recent fiscal year for which audited financial statements are then available, (ii) direct or indirect acquisition (including by scheme of arrangement or takeover offer) or issuance (whether in a single transaction or a series of related transactions) of 20% or more of any class of equity or voting securities of the Company, (iii) scheme of arrangement, tender offer, takeover offer or exchange offer that, if consummated, would result in a Person or Group beneficially owning 20% or more of any class of equity or voting securities of the Company, or (iv) scheme of arrangement, merger, consolidation, share exchange, business combination, joint venture, reorganization, recapitalization or similar transaction involving the Company or any of its Subsidiaries, under which a Person or Group or, in the case of clause (B) below, the shareholders or equityholders of any Person or Group would, directly or indirectly, (A) acquire assets equal to 20% or more of the consolidated assets of the Company, or to which 20% or more of the revenues or earnings of the Company on a consolidated basis are attributable for the most recent fiscal year for which audited financial statements are then available, or (B) immediately after giving effect to such transactions, beneficially own 20% or more of any class of equity or voting securities of the Company or the surviving or resulting Person (including any parent Person) in such transaction.

"***Company Alternative Proposal NDA***" has the meaning ascribed to it in Section 5.2(b).

"***Company Approval Time***" has the meaning ascribed to it in Section 5.2(b).

"***Company Board***" means the board of directors of the Company.

"***Company Breach Termination***" has the meaning ascribed to it in Section 9.1(a)(iii)(A).

"***Company Capitalization Date***" has the meaning ascribed to it in Section 6.1(c)(i).

"***Company Change of Recommendation***" has the meaning ascribed to it in Section 5.2(a)(iii).

"***Company Contracts"*** means a Contract of any member of the Company Group.

"***Company Credit Agreement***" means the Credit Agreement, dated as of May 7, 2015, by and among Horizon Therapeutics USA, Inc., a Delaware corporation, the Company, the subsidiary guarantors party thereto, the lenders party thereto from time to time and Citibank, N.A., as Administrative Agent and Collateral Agent (as amended by Amendment No. 1, dated as of October 25, 2016, Amendment No. 2, dated as of March 29, 2017, Amendment No. 3, dated as of October 23, 2017, Amendment No. 4, dated as of October 19, 2018, Amendment No 5., dated as of March 11, 2019, Amendment No. 6, dated as of May 22, 2019, Amendment No. 7, dated as of December 18, 2019, the Incremental Amendment and Lender Joinder Agreement, dated as of August 17, 2020 and Amendment No. 9, dated as of March 15, 2021).

"***Company Deferred Shares***" means the deferred ordinary shares of the Company, nominal value €1.00 per share.

"***Company Disclosure Schedule***" has the meaning ascribed to it in Section 6.1.

"***Company Employees***" means the employees of the Company or any Subsidiary of the Company as of immediately prior to the Effective Time.

"***Company Equity Award Holder Proposal***" means the proposal of Parent to the Company Equity Award Holders to be made in accordance with this Agreement (including Section 4), Rule 15 of the Irish Takeover Rules and the terms of the Company Share Plans.

"***Company Equity Award Holders***" means the holders of the Company Equity Awards.

"***Company Equity Awards***" means the Company Options, the Company RSU Awards and the Company PSU Awards.

"***Company ESPP***" means the Company's 2020 Employee Share Purchase Plan.

"***Company Group***" means the Company and its Subsidiaries.

"***Company Intellectual Property***" means the Owned Intellectual Property and the Licensed Intellectual Property.

"***Company Intervening Event***" means any material event, fact, change, effect, development or occurrence arising or occurring after the date of this Agreement and prior to the Company Approval Time that (i) was not known or reasonably foreseeable, or the material consequences of which were not known or reasonably foreseeable, in each case to the Company Board as of or prior to the date of this Agreement, and (ii) does not relate to (a) any Company Alternative Proposal or consequence thereof, (b) Parent or any of its Subsidiaries or (c) any change in the market price or trading volume of the Company Shares or the fact that the Company meets or exceeds any internal or analysts' expectations or projections of the results of operations of the Company Group (it being understood that the underlying causes of such change or fact shall not be excluded by this clause (c)).

"***Company Irrecoverable VAT***" has the meaning ascribed to it in Section 9.2(e)(i)(A).

"***Company IT Assets***" means computers, Software, firmware, middleware, servers, workstations, routers, hubs, switches, data communications lines, and all other information technology equipment, and all associated documentation, in each case, used or held for use by a member of the Company Group.

"***Company Material Adverse Effect***" means any event, change, effect, development or occurrence that, individually or together with any other event, change, effect, development or occurrence, (a) would prevent, materially delay or materially impair the ability of the Company to consummate the Acquisition or (b) has had or would reasonably be expected to have a material adverse effect on the condition (financial or otherwise), business, assets, liabilities or results of operations of the Company Group, taken as a whole; *provided* that, solely for the purposes of clause (b), no event, change, effect, development or occurrence to the extent resulting from or arising out of any of the following shall be deemed to constitute a Company Material Adverse Effect or shall be taken into account in determining whether there has been, or would reasonably be expected to be, a Company Material Adverse Effect: (i) any decline in the market price or change in trading volume of the Company Shares; (ii) any event, change, effect, development or occurrence directly resulting from the announcement or pendency of the Transactions (other than for purposes of any representation or warranty contained in Section 6.1(u)(ii) and Section 6.1(v) but subject to corresponding disclosures in the Company Disclosure Schedule); (iii) any event, change, effect, development or occurrence in the industries and jurisdictions in which the Company Group operates or in the U.S. or global economy generally or other general business, financial or market conditions in the U.S. or globally, except in each case to the extent that the Company Group, taken as a whole, is adversely affected disproportionately relative to the other participants in such industries or the U.S. or the global economy generally, as applicable, and then only to the extent of such disproportionate impact; (iv) any event, change, effect, development or occurrence arising directly or indirectly from or otherwise relating to fluctuations in the value of any currency, except to the extent that the Company Group, taken as a whole, is adversely affected disproportionately relative to the other participants in such industries or the economy generally, as applicable, and then only to the extent of such disproportionate impact; (v) any event, change, effect, development or occurrence arising directly or indirectly from or otherwise relating to any act of terrorism, war, national or international calamity or any other similar event (other than cyberattacks), except to the extent that such event, circumstance, change or effect disproportionately affects the Company Group, taken as a whole, relative to other participants in the industries in which the Company Group operates or in the U.S or global economy generally, as applicable, and then only to the extent of such disproportionate impact; (vi) any epidemic, pandemic (including COVID-19), disease outbreak or other public health-related event, hurricane, tornado, flood, earthquake, tsunamis, tornadoes, mudslides, fires or other natural disaster or other force majeure event, or the escalation or worsening thereof, except to the extent that the Company Group, taken as a whole, is adversely affected disproportionately relative to other participants in the industries in which the Company Group operates or in the U.S. or global economy generally, as applicable, and then only to the extent of such disproportionate impact; (vii) the failure of any member of the Company Group to meet internal or analysts' expectations or projections of the results of operations of the Company Group; (viii) any adverse effect arising directly from or otherwise directly relating to any action taken by the Company Group at the written direction of Parent or any action specifically required pursuant to the terms of this Agreement to be taken by the Company (except for any obligation to operate in the ordinary course of business); (ix) any event, change, effect, development or occurrence arising directly or indirectly from or otherwise relating to any change in, or any compliance with, any applicable Laws or GAAP (or interpretations of any applicable Laws or GAAP), except to the extent that the Company Group, taken as a whole, is adversely affected disproportionately relative to the other participants in such industries or the U.S. or global economy generally, as applicable, and then only to the extent of

such disproportionate impact; or (x) any FDA or similar (in the U.S. or globally) regulatory, manufacturing, safety or clinical event, change, effect, development or occurrence relating to any Company Product (but excluding the loss of any manufacturing license or the loss of marketing authorization for any Company Product); it being understood that the exceptions in clauses (i) and (vii) shall not prevent or otherwise affect a determination that the underlying cause of any such decline or failure referred to therein (if not otherwise expressly excluded under any of the exceptions provided by clauses (ii) through (vi) or (viii) through (x) hereof) is a Company Material Adverse Effect.

"***Company Memorandum and Articles of Association***" has the meaning ascribed to it in Section 6.1(a).

"***Company Note Offers and Consent Solicitations***" has the meaning ascribed to it in Section 7.8(b).

"***Company Notes***" means the 5.500% Senior Notes of the Company due 2027 issued under the Indenture.

"***Company Options***" means all options to purchase Company Shares granted pursuant to Company Share Plans.

"***Company Product***" means all products or product candidates that are being researched, tested, developed, commercialized, manufactured, sold or distributed by any member of the Company Group and all products or product candidates, if any, with respect to which any member of the Company Group has royalty rights.

"***Company PSU Awards***" means all restricted stock units payable in Company Shares or whose value is determined with reference to the value of Company Shares with performance-based vesting or delivery requirements granted pursuant to the Company Share Plans.

"***Company Related Parties***" has the meaning ascribed to it in Section 9.2(h)(i).

"***Company RSU Awards***" means all restricted stock units payable in Company Shares or whose value is determined with reference to the value of Company Shares granted pursuant to the Company Share Plans other than any Company PSU Award.

"***Company SEC Documents***" has the meaning ascribed to it in Section 6.1(d)(i).

"***Company Share Award***" means the Company PSU Awards and the Company RSU Awards.

"***Company Share Plans***" means, collectively, the 2011 Equity Incentive Plan, as amended, the Amended and Restated 2014 Equity Incentive Plan, the 2014 Non-Employee Equity Plan, as amended, the Amended and Restated 2018 Equity Incentive Plan, the 2020 Employee Share Purchase Plan, and the Amended and Restated 2020 Equity Incentive Plan, as amended, including any sub-plans thereto.

"***Company Shareholder Approval***" means (i) the approval of the Scheme by a majority in number of members of each class of the Company Shareholders (including as may be directed by the Irish High Court pursuant to Section 450(5) of the Irish Companies Act) representing, at the relevant voting record time, at least 75% in value of the Company Shares of that class held by the Company Shareholders who are members of that class and that are present and voting either in person or by proxy, at the Scheme Meeting (or at any adjournment or postponement of such meeting) and (ii) the Required EGM Resolutions being duly passed by the requisite majorities of the Company Shareholders at the EGM (or at any adjournment or postponement of such meeting).

"***Company Shareholders***" means the registered holders of Company Shares.

"***Company Shares***" means the ordinary shares of the Company, nominal value US$0.0001 per share.

"***Company Superior Proposal***" means any bona fide, written Company Alternative Proposal (with all references to "20%" in the definition of the Company Alternative Proposal being deemed to be references to "50%") on terms that the Company Board determines in good faith, after consultation with its financial advisor and outside legal counsel, (a) is more favorable to the Company Shareholders (in their capacity as such) from a financial point of view than the Acquisition and (b) is reasonably expected to be consummated in accordance with its terms, in the case of each of clauses (a) and (b), taking into account all the financial, legal, regulatory and other terms and conditions of the Company Alternative Proposal that the Company Board considers to be appropriate (including the expected timing of consummation, any governmental or other approval requirements, and availability of necessary financing).

"***Company Supplemental Indenture***" has the meaning ascribed to it in Section 7.8(b).

"***Completion***" means the completion of the Acquisition.

"***Completion Date***" has the meaning ascribed to it in Section 8.1(a).

"***Concert Parties***" means such Persons as are deemed to be Acting in Concert with Parent pursuant to Rule 3.3 of Part A of the Irish Takeover Rules.

"***Conditions***" means the conditions to the Scheme and the Acquisition set out in Appendix 3 of the Rule 2.7 Announcement attached hereto, and "***Condition***" means any one of the Conditions.

"***Confidentiality Agreement***" means the confidentiality agreement between the Company and Parent dated November 18, 2022.

"***Consent Solicitations***" has the meaning ascribed to it in Section 7.8(b).

"***Consideration***" means US$116.50 in cash per each Company Share.

"***Continuing Employee***" means each Company Employee who is employed by the Company as of immediately prior to the Effective Time and who continues to be employed by Acquirer Sub or Parent (or any Affiliate thereof) following the Effective Time.

"***Contract***" means any written or oral contract, agreement, lease, license or other legally binding obligation, understanding, instrument, commitment or undertaking of any nature.

"***Court Order***" means the Order or Orders of the Irish High Court sanctioning the Scheme under Section 453 of the Irish Companies Act.

"***COVID-19***" means SARS-CoV-2 or COVID-19, and any variants or evolutions thereof or epidemics, pandemics or disease outbreaks thereof.

"***COVID-19 Measures***" means any quarantine, "shelter in place," "stay at home," workforce reduction, social distancing, shutdown, closure, sequester or other Law, order, directive, guideline or recommendation by any Governmental Entity or public health agency in connection with or in response to COVID-19, and all guidelines and requirements, such as social distancing, cleaning, and other similar or related measures of the United States Occupational Safety and Health Administration and the Centers for Disease Control and Prevention or other similar U.S. or non U.S. Governmental Entity in connection with or in response to COVID-19.

"***D&O Claim***" has the meaning ascribed to it in Section 7.3(a).

***"D&O Indemnified Parties***" has the meaning ascribed to it in Section 7.3(a).

"***D&O Indemnifying Parties***" has the meaning ascribed to it in Section 7.3(a).

"***Data Security Requirements***" means, to the extent governing the Company's or any member of the Company Group's Processing of Personal Information, as applicable: (i) Privacy and Security Laws (including as and to the extent applicable, the Health Insurance Portability and Accountability Act of 1996 and the EU General Data Protection Regulation), (ii) externally published policies (including website privacy policies) and other written notices relating to privacy, data transparency or security, and (iii) contractual requirements relating to the privacy or security of Personal Information by which any member of the Company Group is bound.

"***Debt Agreement***" means that certain Bridge Credit Agreement, to be dated as of December 12, 2022, among Parent, Citibank N.A., as administrative agent, Bank of America, N.A., as syndication agent, and Citibank, N.A. and Bank of America, N.A. as lead arrangers and book runners, and the other banks from time to time party thereto, an executed copy of which has been provided to the Company on the date of this Agreement.

"***Debt Offer Documents***" has the meaning ascribed to it in Section 7.8(b).

"***Effective Date***" means the date on which the Scheme becomes effective in accordance with its terms or, if the Acquisition is implemented by way of a Takeover Offer, the date on which the Takeover Offer has become (or has been declared) unconditional in all respects in accordance with the provisions of the Takeover Offer Document and the Irish Takeover Rules.

"***Effective Time***" means the time on the Effective Date at which the Court Order is delivered to the Registrar of Companies or, if the Acquisition is implemented by way of a Takeover Offer, the time on the Effective Date at which the Takeover Offer becomes (or is declared) unconditional in all respects in accordance with the provisions of the Takeover Offer Document and the Irish Takeover Rules.

"***EGM***" means the extraordinary general meeting of the Company Shareholders (and any adjournment or postponement thereof) to be convened in connection with the Scheme, expected to be held as soon as the preceding Scheme Meeting shall have been concluded (it being understood that if the Scheme Meeting is adjourned or postponed, the EGM shall be correspondingly adjourned or postponed).

"***EGM Resolutions***" means, collectively, the following resolutions to be proposed at the EGM: (i) an ordinary resolution to approve the Scheme and to authorize the Company Board to take all such action as it considers necessary or appropriate to implement the Scheme; and (ii) a special resolution amending the Company Memorandum and Articles of Association in accordance with Section 4.3 of this Agreement (the resolutions described in the foregoing clauses (i) and (ii), the "***Required EGM Resolutions***"); (iii) an ordinary resolution that any motion by the chairperson of the Company Board to adjourn or postpone the EGM, or any adjournments or postponements thereof, to another time and place if necessary or appropriate to solicit additional proxies if there are insufficient votes at the time of the EGM to approve the Scheme or any of the Required EGM Resolutions to be approved; and (iv) any other resolutions as the Company reasonably determines to be (A) required under applicable Laws or (B) otherwise necessary or desirable for the purposes of implementing the Acquisition as have been approved by Parent (such approval not to be unreasonably withheld, conditioned or delayed).

"***Employee Agreement***" means each employment, equity incentive, severance, separation, or other written individual agreement or contract that provides for any salary, bonus, commissions, incentive compensation or other compensation, equity, or benefits (including, any offer letter) between the Company or any member of the Company Group and any individual service provider, and with respect to which a member of the Company Group could reasonably be expected to have any liability.

"***Employee Plan***" means any bonus, vacation, deferred compensation, incentive compensation, equity plan, severance pay, termination pay, death and disability benefits, hospitalization, medical, life or other insurance, flexible benefits, supplemental unemployment benefits, profit-sharing, pension or retirement plan, policy, program, contract, agreement or arrangement and each other employee compensation or benefit plan, policy, program, contract, agreement or arrangement sponsored, maintained, contributed to or required to be contributed to by any member of the Company Group or with respect to which any member of the Company Group could reasonably be expected to have any liability, whether written or unwritten, excluding, in all cases, any Employee Agreement.

"***End Date***" means June 12, 2023; *provided*, *however*, that in the event that on the original End Date, one or more of paragraphs 3.1, 3.2 or 3.3 of the Conditions (with respect to paragraph 3.3, only if the failure of such Condition to have been satisfied as of such date is an Order or Law under any Antitrust Law or Foreign Investment Law in connection with or in respect of any matter involving Antitrust Law or Foreign Investment Law) have not been satisfied, and on such date, all of the other Conditions (other than (a) the paragraphs 2.3 and 2.4 of the Conditions or (b) any other Condition that by its nature can only be satisfied on the Sanction Date or, in the alternative to (a)

and (b) where the Acquisition is implemented by Takeover Offer, any other condition that by its nature can only be satisfied by no later than the latest date upon which the Takeover Offer may be declared unconditional in all respects) have been satisfied or waived (or remain capable of being satisfied or waived), then the End Date shall be automatically extended without further action by the Parties until September 12, 2023 (the "***First Extended End Date***") (and in the case of such extension, any reference to the End Date in this Agreement shall be a reference to the First Extended End Date); *provided*, *further*, that in the event that on the First Extended End Date, one or more of the paragraphs 3.1, 3.2 or 3.3 of the Conditions (with respect to paragraph 3.3, only if the failure of such Condition to have been satisfied as of such date is an Order or Law under any Antitrust Law or Foreign Investment Law in connection with or in respect of any matter involving Antitrust Law or Foreign Investment Law) have not been satisfied, and on such date, all of the other Conditions (other than (a) the Conditions set out in paragraphs 2.3 and 2.4 of the Conditions or (b) any other Condition that by its nature can only be satisfied on the Sanction Date or, in the alternative to (a) and (b) where the Acquisition is implemented by Takeover Offer, any other condition that by its nature can only be satisfied by no later than the latest date upon which the Takeover Offer may be declared unconditional in all respects) have been satisfied or waived (or remain capable of being satisfied or waived), then the First Extended End Date shall be automatically extended without further action by the Parties until December 12, 2023 (the "***Second Extended End Date***") (and in the case of such extension, any reference to the End Date in this Agreement shall be a reference to the Second Extended End Date).

"***End Date Termination***" has the meaning ascribed to it in Section 9.1.

"***Environmental Law***" means each applicable Law relating to (i) pollution, protection of human health or worker health or the protection, preservation or restoration of the environment (including air, surface water, groundwater, drinking water supply, surface land, subsurface land, plant and animal life or any other natural resource), or (ii) the exposure to, or the use, storage, recycling, treatment, generation, manufacture, distribution, transportation, processing, handling, labeling, production, release, threatened releases, emissions, discharges or disposal of, Hazardous Substances.

"***Equitable Exceptions***" means (i) applicable bankruptcy, insolvency, examinership, reorganization, moratorium or other similar Laws, now or hereafter in effect, relating to creditors' rights generally and (ii) general equitable principles, whether considered in a proceeding at law or equity.

"***Equity Award Exchange Ratio***" has the meaning ascribed to it in Section 4.1(b)(i).

"***Equity Securities***" means, with respect to any Person, (i) any shares of capital or capital stock (including any ordinary shares) or other voting securities of, or other ownership interest in, such Person, (ii) any securities of such Person convertible into or exchangeable for cash or shares of capital or capital stock or other voting securities of, or other ownership interests in, such Person or any of its Subsidiaries, (iii) any warrants, calls, options or other rights to acquire from such Person, or other obligations of such Person to issue, any shares of capital or capital stock or other voting securities of, or other ownership interests in, or securities convertible into or exchangeable for shares of capital or capital stock or other voting securities of, or other ownership interests in, such Person or any of its Subsidiaries, or (iv) any restricted shares, stock appreciation rights,

restricted units, performance units, contingent value rights, "phantom" stock or similar securities or rights issued by or with the approval of such Person that are derivative of, or provide economic benefits based, directly or indirectly, on the value or price of, any shares of capital or capital stock or other voting securities of, other ownership interests in, or any business, products or assets of, such Person or any of its Subsidiaries.

"***ERISA***" means the United States Employee Retirement Income Security Act of 1974.

"***Exchange Act***" means the United States Securities Exchange Act of 1934.

"***FCPA***" means the United States Foreign Corrupt Practices Act of 1977.

"***FDA***" means the United States Food and Drug Administration.

"***FDCA***" means the United States Food, Drug and Cosmetic Act of 1938.

"***Filing***" means any registration, petition, statement, application, schedule, form, declaration, notice, notification, report, submission or other filing.

"***Financing***" means the debt financing provided by the Debt Agreement and any other third party debt financing that is necessary, or that is otherwise incurred or intended to be incurred by Parent or any of the Subsidiaries of Parent, to refinance or refund any existing Indebtedness for borrowed money of the Company, Parent or any of their respective Subsidiaries in each case in connection with the Transactions, or to fund the Consideration payable by Acquirer Sub in the Scheme or (as the case may be) the Takeover Offer, including the offering or private placement of debt securities or the incurrence of credit facilities.

"***Financing Amounts***" has the meaning ascribed to it in Section 6.2(g)(i).

"***Financing Information***" has the meaning ascribed to it in Section 7.8(a)(ii).

"***Financing Sources***" means (i) the Persons that have committed to provide or arrange or otherwise entered into agreements in connection with the Financing, including the parties to any joinder agreements, engagement letters, indentures or credit agreements entered into pursuant thereto or relating thereto, but excluding in each case, for clarity, the Parties and their Subsidiaries, (ii) the Affiliates of the Persons set forth in clause (i) above and (iii) the Representatives and the respective successors and assigns of the Persons set forth in clauses (i) and (ii) above.

"***Foreign Investment Laws***" means all applicable Laws (other than Antitrust Laws) in effect from time to time that are designed or intended to prohibit, restrict or regulate actions by foreigners to acquire interests in or control over domestic equities, securities, entities, assets, land or other holdings for reasons of national security or other public policy.

"***GAAP***" means U.S. generally accepted accounting principles.

"***GMP Regulations***" means the applicable Laws and guidances for current Good Manufacturing Practices promulgated by the FDA under the FDCA or PHS Act, applicable EU or EU Member State Law, or under the European Union guidelines to Good Manufacturing Practice for medicinal products and any other applicable Governmental Entity in each jurisdiction where any member of the Company Group or a Third Party acting on its behalf is undertaking a clinical trial or any manufacturing activities as of or prior to the Completion.

"***Government Official***" means (i) any official, officer, employee, or representative of, or any Person acting in an official capacity for or on behalf of, any Governmental Entity, (ii) any political party, party official or candidate for political office or (iii) any company, business, enterprise or other entity owned or controlled by any Person described in the foregoing clause (i) or (ii) of this definition.

"***Governmental Authorization***" means any: (a) permit, license, certificate, franchise, permission, variance, clearance, registration, qualification or authorization issued, granted, given or otherwise made available by or under the authority of any Governmental Entity or pursuant to any Law; or (b) right under any Contract with any Governmental Entity.

"***Governmental Entity***" means any United States, Irish or other foreign or supranational, federal, state or local governmental commission, board, body, division, ministry, political subdivision, bureau or other regulatory authority or agency, including courts and other judicial bodies, or any competition, antitrust, foreign investment or supervisory body, central bank, public international organization or other governmental, trade or regulatory agency or body, securities exchange or any self-regulatory body or authority, including any instrumentality or entity designed to act for or on behalf of the foregoing, in each case, in any jurisdiction, including, the Irish Takeover Panel, the Irish High Court and the SEC.

"***Group***" means a "group" as defined in Section 13(d) of the Exchange Act.

"***Hazardous Substance***" means any substance, material or waste that is listed, defined, designated or classified as hazardous, toxic, radioactive, dangerous or a "pollutant" or "contaminant" or words of similar meaning under any Environmental Law or that is otherwise regulated by any Governmental Entity with jurisdiction over the environment or natural resources, including petroleum or any derivative, byproduct or waste thereof, radon, radioactive material, asbestos or asbestos-containing material, urea formaldehyde, foam insulation or polychlorinated biphenyls.

"***Healthcare Laws***" means all Laws relating to the research, development, testing, approval, manufacturing, production, holding, preparation, propagation, compounding, conversion, pricing, marketing, promotion, sale, distribution, import, export, coverage, or reimbursement of Company Products including: Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395-1395lll (the Medicare statute); Title XIX of the Social Security Act, 42 U.S.C. §§ 1396-1396w-5 (the Medicaid statute); the Federal Health Care Program Anti-Kickback Statute, 42 U.S.C. § 1320a-7b(b); the False Claims Act, 31 U.S.C. §§ 3729-3733; the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-3812; the Anti-Kickback Act of 1986, 41 U.S.C. §§ 51-58; the Civil Monetary Penalties Law, 42 U.S.C. §§ 1320a-7a and 1320a-7b; the Exclusion Laws, 42 U.S.C. § 1320a 7; the Health Insurance Portability and Accountability Act of 1996, as amended by the Health Information Technology for Economic and Clinical Health Act (Title XIII of the American Recovery and Reinvestment Act of 2009); the FDCA; the Public Health Service Act; Directive 2001/83/EC on the Community code relating to medicinal products for human use; Regulation 726/2004 laying down Community procedures for the authorization and supervision of medicinal products for human and veterinary use and establishing a European Medicines Agency; any similar international, federal, state and local Laws that address the subject matter of the foregoing; and the Patient Protection and Affordable Care Act of 2010.

"***Historical Financial Statements***" has the meaning ascribed to it in Section 7.8(a)(i).

"***HSR Act***" means the United States Hart-Scott-Rodino Antitrust Improvements Act of 1976.

"***In-bound License***" has the meaning ascribed to it in Section 6.1(h)(iv).

"***Indebtedness***" means, with respect to any Person, without duplication, all outstanding obligations of such Person (a) for borrowed money, (b) as evidenced by bonds, debentures, notes or similar instruments, (c) pursuant to securitization or factoring programs or arrangements, for net cash payment obligations of such Person under swaps, options, forward sales contracts, derivatives and other hedging Contracts, financial instruments or arrangements that will be payable upon termination thereof (assuming termination on the date of determination), (d) for letters of credit, bank guarantees, performance bonds and other similar Contracts or arrangements entered into by or on behalf of such Person, to the extent drawn, or (e) pursuant to guarantees and arrangements having the economic effect of a guarantee of any obligation or undertaking of any other Person contemplated by the foregoing clauses (a) through (d) of this definition, in each case including all interest, premiums, prepayment fees, penalties, commitment or other fees, reimbursements, expenses and other payments due with respect thereto.

"***Indenture***" means that certain Indenture, dated July 16, 2019, between Horizon Therapeutics USA, Inc. and U.S. Bank National Association, as supplemented by the First Supplemental Indenture, dated November 19, 2019, the Second Supplemental Indenture dated April 23, 2020, and the Third Supplemental Indenture dated March 15, 2021.

"***Insurance Policies***" has the meaning ascribed to it in Section 6.1(s).

"***Intellectual Property***" means any and all rights in or associated with any of the following, whether or not registered, arising in the United States or any other jurisdiction throughout the world: (i) trademarks, service marks, trade names, trade dress, logos, symbols, brand names, slogans, Internet domain names, Internet account names (including social networking and media names) and other indicia of origin, together with all common law rights and goodwill associated therewith or symbolized thereby, and all registrations and applications relating to the foregoing; (ii) patents and pending patent applications, and all divisions, continuations, continuations-in-part, reissues and reexaminations, and any extensions thereof; (iii) works of authorship (whether or not copyrightable), registered and unregistered copyrights (including those in Software), all registrations and applications to register the same, and all renewals, extensions, reversions and restorations thereof, including moral rights of authors and common law rights thereto, and technical database rights; (iv) trade secrets, rights in technology, confidential or proprietary information and other know-how, including inventions (whether or not patentable or reduced to practice), concepts, methods, processes, protocols, assays, formulations, formulae, technical, research, clinical and other technical data, technical databases, designs, specifications, schematics, drawings, algorithms, models and methodologies; (v) rights in Software; and (vi) other similar types of proprietary or industrial rights or other intellectual property.

"***Ireland***" or "***Republic of Ireland***" means Ireland, excluding Northern Ireland, and the word "***Irish***" shall be construed accordingly.

"***Irish Companies Act***" means the Companies Act 2014 of Ireland, all enactments which are to be read as one with, or construed or read together as one with, the Companies Act 2014 and every statutory modification and re-enactment thereof for the time being in force.

"***Irish High Court***" means the High Court of Ireland.

"***Irish Takeover Panel Act***" means the Irish Takeover Panel Act 1997.

"***Irish Takeover Rules***" means the Irish Takeover Panel Act 1997, Irish Takeover Rules, 2022.

"***Irrecoverable VAT***" means in relation to any Person, any amount in respect of VAT which that Person (or a member of the same VAT Group as that Person) has incurred and in respect of which neither that Person nor any other member of the same VAT Group as that Person is entitled to a refund (by way of credit or repayment) from any relevant Tax Authority pursuant to and determined in accordance with applicable VAT Laws.

"***knowledge***" means in relation to the Company, the actual knowledge, after reasonable inquiry of their direct reports, of the Persons listed in Section 1.1(a) of the Company Disclosure Schedule. With respect to matters involving Intellectual Property, reasonable inquiry does not require that the Persons listed in Section 1.1(a) of the Company Disclosure Schedule to conduct or have conducted or obtain or have obtained any freedom-to-operate opinions or similar opinions of counsel or any Intellectual Property clearance searches, and no knowledge of any Intellectual Property of any other Person that would have been revealed by such inquiries, opinions or searches will be imputed to such Persons.

"***Law***" means any federal, state, local, foreign or supranational law, statute, ordinance, rule, regulation, judgment, order, injunction, decree, executive order or agency requirement of any Governmental Entity.

"***Lease***" has the meaning ascribed to it in Section 6.1(g).

"***Leased Real Property***" has the meaning ascribed to it in Section 6.1(g).

"***Legal Proceeding***" means any action, suit, charge, complaint, litigation, arbitration, proceeding (including any civil, criminal, administrative, investigative or appellate proceeding) or hearing commenced, brought, conducted or heard by or before, or otherwise involving, any court or other Governmental Entity or any arbitrator or arbitration panel that have the applicable jurisdiction.

"***Licensed Intellectual Property***" means any and all Intellectual Property owned by a Third Party and licensed (including sublicensed or granted a covenant not to sue) to any member of the Company Group.

"***Lien***" means, with respect to any property or asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such property or asset.

"***Marketing Material***" has the meaning ascribed to it in Section 7.8(a)(i).

"***Material Contract***" has the meaning ascribed to it in Section 6.1(j).

"***Maximum Premium***" has the meaning ascribed to it in Section 7.3(b).

"***Nasdaq***" means the Nasdaq Global Select Market, or any successor stock market or exchange operated by Nasdaq, Inc., or any successor thereto.

"***New Plans***" has the meaning ascribed to it in Section 7.4(c).

"***Non Approval Termination***" has the meaning ascribed to it in Section 9.1(a)(i)(A).

"***Northern Ireland***" means the counties of Antrim, Armagh, Derry, Down, Fermanagh and Tyrone on the island of Ireland.

"***Offering Document***" has the meaning ascribed to it in Section 7.8.

"***Offers to Exchange***" has the meaning ascribed to it in Section 7.8(b).

"***Offers to Purchase***" has the meaning ascribed to it in Section 7.8(b).

***"Old Plans***" has the meaning ascribed to it in Section 7.4(c).

"***Option Consideration***" has the meaning ascribed to it in Section 4.1(a).

"***Order***" means any order, writ, decree, judgment, award, injunction, ruling, settlement or stipulation issued, promulgated, made, rendered or entered into by or with any Governmental Entity or arbitrator (in each case, whether temporary, preliminary or permanent).

"***Organizational Documents***" means articles of association, articles of incorporation, certificate of incorporation, constitution, by-laws, limited liability company agreement, operating agreement or other equivalent organizational document, as appropriate.

***"Out-bound License***" has the meaning ascribed to it in Section 6.1(h)(iv).

"***Owned Intellectual Property***" means any and all Intellectual Property owned or purported to be owned by any member of the Company Group.

"***Owned Real Property***" has the meaning ascribed to it in Section 6.1(g).

"***Parent***" has the meaning ascribed to it in the Preamble.

"***Parent Breach Termination***" has the meaning ascribed to it in Section 9.1(a).

"***Parent Common Stock***" has the meaning ascribed to it in Section 4.1(b)(i).

"***Parent Financing Information***" has the meaning ascribed to it in Section 3.4(b)(i).

"***Parent Group***" means Parent and its Subsidiaries.

"***Parent Material Adverse Effect***" means any effect, change, event or occurrence that would, individually or in the aggregate, prevent, materially delay or materially impair the ability of Parent or Acquirer Sub to consummate the Transactions.

"***Parent Parties***" means Parent and Acquirer Sub and "***Parent Party***" means either Parent or Acquirer Sub (as the context requires).

"***Parent Payment Events***" has the meaning ascribed to it in Section 9.2(b).

"***Parent Related Parties***" has the meaning ascribed to it in Section 9.2(h)(i).

"***Parent RSU***" has the meaning ascribed to it in Section 4.1(b)(i).

"***Parties***" means the Company and the Parent Parties and "***Party***" means either the Company, on the one hand, or Parent or the Parent Parties (whether individually or collectively), on the other hand (as the context requires).

"***Permitted Liens***" means (i) any Lien for Taxes (A) not yet due and payable or (B) which are being contested in good faith by appropriate proceedings and with respect to which adequate reserves have been established in accordance with GAAP, (ii) carriers', warehousemen's, mechanics', materialmen's, repairmen's or other similar Liens, (iii) pledges or deposits in connection with workers' compensation, unemployment insurance and other social security legislation, (iv) gaps in the chain of title that are required to be recorded, evident from the records of the applicable Governmental Entity maintaining such records, easements, rights-of-way, covenants, restrictions and other encumbrances of record as of the date of this Agreement that do not materially detract from the value or the use of the property subject thereto, (v) statutory landlords' liens and liens granted to landlords under any lease, (vi) any purchase money security interests, equipment leases or similar financing arrangements, (vii) any Liens which are reflected on the Balance Sheet, or the notes thereto, or incurred in connection with the Company Credit Agreement, (viii) any non-exclusive licenses in the ordinary course of business, or (ix) any Liens that are not material to the Company and its Subsidiaries, taken as a whole.

"***Person***" means any individual, corporation, partnership, limited liability company, association, trust or other entity or organization, including a government or political subdivision or an agency or instrumentality of such government or political subdivision.

"***Personal Information***" means any information Processed by or on behalf of any of the Company Group that constitutes "personal information," "personal data," "personally identifiable information," "protected health information," or other analogous term as defined under applicable Privacy and Security Laws.

"***Privacy and Security Laws***" means applicable Laws that govern the Processing, privacy or security of Personal Information.

"***Process***" or "***Processing***" means, with respect Personal Information, the use, collection, receipt, processing, aggregation, storage, recording, retention, organization, adaption, alteration, transfer (including cross-border transfer), retrieval, consultation, disclosure, dissemination, erasure, destruction, anonymization or combination of such Personal Information.

"***Proxy Statement***" has the meaning ascribed to it in Section 3.1(a).

"***PSU Consideration***" has the meaning ascribed to it in Section 4.1(b)(ii).

"***Redemption***" has the meaning ascribed to it in Section 7.9(b).

"***Registered IP***" means all Intellectual Property that are registered or issued under the authority of any Governmental Entity or Internet domain name registrar, including all issued patents, registered copyrights, registered mask works, and registered trademarks, service marks and trade dress, registered domain names, and all pending applications for patents, trademarks and service marks.

"***Registrar of Companies***" means the Registrar of Companies in Dublin, Ireland.

"***Regulatory Agency***" means any Governmental Entity that is concerned with the quality, identity, strength, purity, safety, efficacy, testing, manufacturing, labeling, storage, distribution, marketing, sale, pricing, import or export of any of the Company Products.

"***Regulatory Information Service***" means a regulatory information service as defined in the Irish Takeover Rules.

"***Regulatory Permits***" means authorization (i) under the FDCA or the Public Health Service Act and (ii) of any applicable Regulatory Agency, in each case, as necessary for the lawful operation of the business of the Company or any of its Subsidiaries.

"***Reimbursement Amount***" means an amount equal to the documented, specific, quantifiable Third Party costs and expenses incurred, directly or indirectly, by Parent or its Subsidiaries, or on their behalf, for the purposes of, in preparation for, or in connection with the Acquisition, including Third Party costs and expenses incurred in connection with exploratory work carried out in contemplation of and in connection with the Acquisition, legal, financial and commercial due diligence, the arrangement of financing and the engagement of Third Party Representatives to assist in the process.

"***Reimbursement Payment***" has the meaning ascribed to it in Section 9.2(a).

"***Remedy Actions***" has the meaning ascribed to it in Section 7.2(c).

"***Representatives***" means, in relation to any Person, the directors, officers, employees, agents, investment bankers, financial advisors, legal advisors, accountants, brokers, finders, consultants or other representatives of such Person.

"***Required Non-U.S. Jurisdiction***" has the meaning ascribed to it in Section 7.2(d).

"***Resolutions***" means the EGM Resolutions or the Scheme Meeting Resolution, as the context requires, which will be set out in the Scheme Document.

"***Restraining Order Termination***" has the meaning ascribed to it in Section 9.1(a).

"***Reverse Termination Payment***" has the meaning ascribed to it in Section 9.2(a).

"***RSU Cash Consideration***" has the meaning ascribed to it in Section 4.1(b)(i).

"***Rule 2.7 Announcement***" means the announcement to be made by the Parties pursuant to Rule 2.7 of the Irish Takeover Rules for the purposes of the Acquisition, in the form agreed to by or on behalf of the Parties.

"***Sanction Date***" has the meaning ascribed to it in Appendix 3 of the Rule 2.7 Announcement.

"***Scheme***" means the proposed scheme of arrangement under Chapter 1 of Part 9 of the Irish Companies Act to effect the Acquisition pursuant to this Agreement, on such terms and in such form as is consistent with the terms agreed to by the Parties as set out in the Rule 2.7 Announcement, including any revision thereof as may be agreed between the Parties in writing, and, if required, by the Irish High Court.

"***Scheme Barrister***" has the meaning ascribed to it in Section 3.1(b).

"***Scheme Document***" means a document (or relevant sections of the Proxy Statement) (including any amendments or supplements thereto) to be distributed to the Company Shareholders and, for information only, to the Company Equity Award Holders containing (i) the Scheme, (ii) the notice or notices of the Scheme Meeting and EGM, (iii) an explanatory statement as required by Section 452 of the Irish Companies Act with respect to the Scheme, (iv) such other information as may be required or necessary pursuant to the Irish Companies Act, the Exchange Act or the Irish Takeover Rules and (v) such other information as the Company and Parent shall agree.

"***Scheme Meeting***" means the meeting or meetings of the Company Shareholders or, if applicable, the meeting or meetings of any class or classes of Company Shareholders (and, in each case, any adjournment or postponement thereof) convened by order of the Irish High Court pursuant to Section 450 of the Irish Companies Act to consider and, if thought fit, approve the Scheme (with or without amendment).

"***Scheme Meeting Resolution***" means the resolution to be proposed at the Scheme Meeting for the purposes of approving and implementing the Scheme.

"***Scheme Recommendation***" means the unanimous recommendation of the Company Board that Company Shareholders vote in favor of the Resolutions (or, subject to this Agreement, if Acquirer Sub effects the Acquisition as a Takeover Offer, the unanimous recommendation of the Company Board that Company Shareholders accept the Takeover Offer).

"***Scheme Record Time***" means time specified as the scheme record time in the Scheme.

"***SEC***" means the United States Securities and Exchange Commission.

"***Securities Act***" means the United States Securities Act of 1933.

"***Security Incident***" means any breach of security, phishing incident, ransomware, malware attack or any other incident involving the unauthorized or unlawful Processing of Personal Information that would require notification to any Person under Data Security Requirements.

***"Severance Arrangements***" has the meaning ascribed to it in Section 7.4(b).

"***Significant Subsidiary***" means a significant subsidiary as defined in Rule l-02(w) of Regulation S-X of the Securities Act.

"***Software***" means all (i) computer programs and other software including any and all software implementations of algorithms, models, methodologies, assemblers, applets, compilers, development tools, design tools and user interfaces, whether in source code or object code form, (ii) technical databases and compilations, including all technical data and collections of technical data, whether machine readable or otherwise, (iii) updates, upgrades, modifications, improvements, enhancements, derivative works, new versions, new releases and corrections to or based on any of the foregoing, and (iv) all documentation, including development, diagnostic, support, user and training documentation, related to the foregoing.

"***Specified Termination***" has the meaning ascribed to it in Section 9.2(c).

"***Standard Contracts***" has the meaning ascribed to it in Section 6.1(h)(iv).

"***Subsidiary***" means, with respect to any Person, any entity of which securities or other ownership interests having ordinary voting power to elect a majority of the board of directors or other persons performing similar functions are directly or indirectly owned by such Person. For purposes of this Agreement, a Subsidiary shall be considered a "wholly owned Subsidiary" of a Person if such Person directly or indirectly owns all of the securities or other ownership interests (excluding any securities or other ownership interests held by an individual director or officer required to hold such securities or other ownership interests pursuant to applicable Laws) of such Subsidiary.

"***Superior Proposal Termination***" has the meaning ascribed to it in Section 9.1(a)(ii)(B).

"***Takeover Offer***" means an offer in accordance with Section 3.6 for the entire issued share capital of the Company (other than any Company Shares beneficially owned by Parent or Acquirer Sub and any Company Shares held by any member of the Company Group) including any amendment or revision thereto pursuant to this Agreement, the full terms of which would be set out in the Takeover Offer Document or (as the case may be) any revised offer documents.

"***Takeover Offer Document***" means, if, following the date of this Agreement, Parent elects to implement the Acquisition by way of the Takeover Offer in accordance with Section 3.6, the document to be sent to the Company Shareholders and others jointly by Parent and Acquirer Sub containing, among other things, the Takeover Offer, the Conditions (except as Parent determines pursuant to and in accordance with Section 3.6 not to be appropriate in the case of a Takeover Offer) and certain information about Parent, Acquirer Sub and the Company and, where the context so requires, includes any form of acceptance, election, notice or other document reasonably required in connection with the Takeover Offer.

"***Tax***" or "***Taxes***" means any and all taxes imposed by or payable to any federal, state, provincial, local or non-U.S. Tax Authority, and includes all U.S. federal, state, local and non-U.S. gross or net income, gain, profits, windfall profits, franchise, gross receipts, estimated, capital, documentary, transfer, ad valorem, premium, customs duty, capital stock, severances, stamp, payroll, sales, employment, unemployment compensation, social security, disability, use, property, withholding or backup withholding, excise, production, value added and occupancy taxes, together with all interest, penalties and additions imposed with respect thereto.

"***Tax Authority***" means any Governmental Entity responsible for the assessment, collection or enforcement of laws relating to Taxes (including the United States Internal Revenue Service and the Irish Revenue Commissioners and any similar state, local, or non-U.S. revenue agency).

"***Tax Return***" means all returns and reports (including elections, declarations, disclosures, schedules, estimates, claims for refunds and information returns) filed or required to be filed with a Tax Authority relating to Taxes, including all attachments thereto and any amendments or supplements thereof.

"***Third Party***" means any Person or Group, other than the Company or any of its Affiliates, in the case of Parent and Acquirer Sub, or other than Parent or any of its Affiliates, in the case of the Company, and the Representatives of such Persons, in each case, acting in such capacity.

"***Transaction Litigation***" has the meaning ascribed to it in Section 7.10.

"***Transactions***" means the transactions contemplated by this Agreement, including the Acquisition.

"***U.S.***" or "***United States***" means the United States, its territories and possessions, any State of the United States and the District of Columbia, and all other areas subject to its jurisdiction.

"***VAT***" means any tax imposed by any member state of the European Union in conformity with the directive of the Council of the European Union on the common system of value added tax (2006/112/EC) and any tax similar to or replacing the same.

"***VAT Group***" means a group as defined in Section 15 of the Value Added Tax Consolidation Act 2010 and any similar VAT grouping arrangement in any other jurisdiction.

"***Willful Breach***" means a material breach of this Agreement that is the consequence of an act or omission by a Party with the actual knowledge that the taking of such act or such omission to take action would be a material breach of this Agreement.

**1.2 Construction**.

(a) The following rules of interpretation shall apply to this Agreement: (i) the words "hereof," "hereby," "herein" and "hereunder" and words of like import used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement; (ii) the table of contents and captions in this Agreement are included for convenience of reference only and shall be ignored in the construction or interpretation hereof; (iii) references to Sections are to Sections of this Agreement unless otherwise specified; (iv) all schedules annexed to this Agreement or referred to in this Agreement, including the Company Disclosure Schedule, are incorporated in and made a part of this Agreement as if set out in full in this Agreement; (v) any capitalized term used in any schedule annexed to this Agreement, including the Company Disclosure Schedule, but not otherwise defined therein shall have the meaning set out in this Agreement; (vi) any singular term in this Agreement shall be deemed to include the plural, and any plural term the singular, and references to any gender shall include all genders; (vii) whenever the words "include," "includes" or "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation," whether or not they are in fact followed by those words or words of like import; (viii) "writing," "written" and comparable terms refer to printing, typing and other means of reproducing words (including electronic media) in a visible form; (ix) references to any applicable Law shall be deemed to refer to such applicable Law as amended from time to time and to any rules or regulations promulgated thereunder; (x) 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; (xi) references to any Person include the successors and permitted assigns of that Person; (xii) references "from" or "through" any date mean, unless otherwise specified, "from and including" or "through and including," respectively; (xiii) references to "dollars" and "$" means U.S. dollars; (xiv) the term "made available" and words of similar import mean that the relevant documents, instruments or materials were (A) with respect to Parent, posted and made available to Parent on the Company due diligence data site (or in any "clean room" or as otherwise provided on an "outside counsel only" basis) at least one day prior to the date of this Agreement; or (B) filed or furnished to the SEC at least one Business Day prior to the date of this Agreement and not subject to any redactions or omissions; (xv) the word "extent" in the phrase "to the extent" means the degree to which a subject or other theory extends and such phrase shall not mean "if"; (xvi) any reference to an Irish legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court, official or any legal concept or thing shall, in respect of any jurisdiction other than Ireland, be deemed to include a reference to what most nearly approximates in that jurisdiction to the Irish legal term, (xvii) references to times are to New York City times unless otherwise specified; (xviii) unless otherwise indicated, the word "or" shall not be exclusive (*i.e.*, "or" shall be deemed to mean "and/or"); and (xix) the Parties have participated jointly in the negotiation and drafting of this Agreement and, in the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as jointly drafted by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any provision of this Agreement.

## SECTION 2. RULE 2.7 ANNOUNCEMENT AND SCHEME DOCUMENT

**2.1 Rule 2.7 Announcement**.

(a) Each Party confirms that its respective board of directors (or a duly authorized committee thereof) has approved the contents and release of the Rule 2.7 Announcement.

(b) Following the execution of this Agreement, the Company and Parent shall jointly, in accordance with, and for the purposes of, the Irish Takeover Rules, procure the release of the Rule 2.7 Announcement to a Regulatory Information Service by no later than 11:59 a.m., New York City time, on December 12, 2022, or such later time as may be agreed between the Parties in writing.

(c) The obligations of the Parties under this Agreement, other than the obligations under Section 2.1(a), shall be conditional on the release of the Rule 2.7 Announcement to a Regulatory Information Service.

(d) The Company confirms that, as of the date of this Agreement, the Company Board unanimously considers that the terms of the Scheme as contemplated by this Agreement are fair and reasonable and that the Company Board has unanimously resolved to recommend to the Company Shareholders that they vote in favor of the Resolutions. The recommendation of the Company Board that the Company Shareholders vote in favor of the Resolutions, and the related opinion of the financial advisors to the Company Board, are set out in the Rule 2.7 Announcement and, subject to Section 5.2, shall be incorporated in the Scheme Document and to the extent required by the Irish Takeover Rules, any other document sent to the Company Shareholders in connection with the Acquisition.

(e) The Conditions are hereby incorporated in and shall constitute a part of this Agreement.

**2.2 The Scheme**. Subject to Section 3.6:

(a) the Company agrees that, unless this Agreement has been terminated in accordance with Section 9, it will propose the Scheme to the Company Shareholders in the manner set out in Section 3 and, subject to the satisfaction or, in the sole discretion of the applicable Party, waiver (where permissible under the provisions of the Rule 2.7 Announcement or the Scheme Document) of the Conditions (with the exception of paragraphs 2.3 and 2.4 of the Conditions and any other Conditions that by their nature are to be satisfied on the Sanction Date, but subject to the satisfaction or waiver (where permissible under the provisions of the Rule 2.7 Announcement or the Scheme Document) of such Conditions), will, in the manner set out in Section 3, apply to the Irish High Court for the sanction of the Scheme so as to facilitate the implementation of the Acquisition;

(b) each of Parent and Acquirer Sub agrees that it will participate in the Scheme and agrees to be bound by its terms, as proposed by the Company to the Company Shareholders, and that it shall, subject to the satisfaction or, in the sole discretion of the applicable Party, waiver (where permissible under the provisions of the Rule 2.7 Announcement or the Scheme Document) of the Conditions, effect the Acquisition through the Scheme on the terms set out in this Agreement and the Scheme; and

(c) each of the Parties agrees that it will perform all of the obligations required of it in respect of the Acquisition on the terms set out in this Agreement or the Scheme, and each will, subject to the terms and conditions of this Agreement, including Section 7.2, use its reasonable best efforts to take such other steps as are within its power and are reasonably required of it for the proper implementation of the Scheme, including those required of it pursuant to this Agreement in connection with the Completion.

**2.3 Change in Shares**. If at any time during the period between the date of this Agreement and the earlier of (i) the Effective Time and (ii) the termination of this Agreement pursuant to and in accordance with Section 9, the outstanding Company Shares shall have been changed into, or exchanged for, a different number of shares or a different class, by reason of any subdivision, reclassification, reorganization, recapitalization, split, combination, contribution or exchange of shares, or a stock dividend or dividend payable in any other securities shall be declared with a record date within such period, or any similar event shall have occurred, the Consideration and any payments to be made under Section 4 and any other number or amount contained in this Agreement which is based upon the price or number of Company Shares shall be correspondingly adjusted to provide the holders of Company Shares the same economic effect as contemplated by this Agreement prior to such event. Nothing in this Section 2.3 shall be construed to permit any Party to take any action that is otherwise prohibited or restricted by any other provision of this Agreement.

**2.4 Company Equity Award Holder Proposal**.

(a) Subject to the posting of the Scheme Document to the Company Shareholders in accordance with Section 3.1, the Parties agree that the Company Equity Award Holder Proposal will be made to Company Equity Award Holders in respect of their respective holdings of Company Options or Company Share Awards in accordance with Rule 15 of the Irish Takeover Rules and the terms of the Company Share Plans.

(b) The Company Equity Award Holder Proposal shall be sent as a joint letter from the Company and Parent and the Parties shall reasonably agree to the final form of the letter to be issued in respect of the Company Equity Award Holder Proposal and all other documentation necessary to effect the Company Equity Award Holder Proposal.

(c) Except as required by applicable Laws, the Irish High Court or the Irish Takeover Panel, no Party shall amend the Company Equity Award Holder Proposal after it is sent without the consent of each other Party (such consent not to be unreasonably withheld, conditioned or delayed).

## SECTION 3. IMPLEMENTATION OF THE SCHEME

**3.1 Responsibilities of the Company in Respect of the Scheme**.

The Company shall:

(a) (i) be responsible for the preparation of the proxy statement to be sent to the Company Shareholders in connection with the matters to be submitted at the Scheme Meeting and the EGM (such proxy statement, as amended or supplemented, the "***Proxy Statement***") and the Scheme Document (which shall be on terms consistent with the Rule 2.7 Announcement) and all other documentation necessary to effect the Scheme and to convene the EGM and Scheme Meeting, including any materials required to be filed with the SEC in connection with the foregoing, (ii) provide Parent with drafts of the Proxy Statement and the Scheme Document and afford Parent a reasonable opportunity to review and comment on the Proxy Statement and the Scheme Document and such other documents and shall consider such comments in good faith and (iii) subject to the foregoing clauses (i) and (ii), as promptly as reasonably practicable after the date of this Agreement (but in no event later than December 30, 2022), cause the preliminary Proxy Statement and the Scheme Document to be filed with the SEC and the Irish Takeover Panel (in accordance with Rule 41.1(b) of the Irish Takeover Rules).

(b) for the purpose of implementing the Scheme, instruct an Irish qualified barrister (of senior counsel standing) (the "***Scheme Barrister***") and provide Parent and its Representatives with the opportunity to attend any meetings with the Scheme Barrister to discuss matters pertaining to the Scheme and any material issues arising in connection with it (except to the extent the Scheme Barrister is to advise on matters relating to the fiduciary duties of the directors of the Company or their responsibilities under the Irish Takeover Rules, a Company Alternative Proposal or the termination of this Agreement pursuant to and in accordance with Section 9);

(c) as promptly as reasonably practicable, notify Parent upon the receipt of any comments from the Irish Takeover Panel or the SEC on, or any request from the Irish Takeover Panel or the SEC for amendments or supplements to, the Proxy Statement, the Scheme Document, the Company Equity Award Holder Proposal and the related forms of proxy and provide Parent with copies of all material written correspondence between it and its Representatives and the Irish Takeover Panel or the SEC relating to such documents;

(d) use its reasonable best efforts to respond to and resolve all Irish Takeover Panel and SEC comments with respect to the Proxy Statement and the Scheme Document as promptly as reasonably practicable after receipt thereof;

(e) as promptly as reasonably practicable, notify Parent of any other matter of which it becomes aware which would reasonably be expected to materially delay or prevent filing of the Proxy Statement or the Scheme Document with the SEC and the Irish Takeover Panel, as applicable, or implementation of the Scheme as the case may be;

(f) prior to filing or sending any amendment or supplement to the Proxy Statement or the Scheme Document requested by the Irish Takeover Panel or the SEC, or responding in writing to any comments of the Irish Takeover Panel or the SEC with respect thereto, the Company shall provide Parent with a reasonable opportunity to review and comment on such document or response and consider in good faith such comments;

(g) cause the Proxy Statement to be mailed as promptly as reasonably practicable after the date on which the SEC confirms that it will not review the Proxy Statement (which confirmation will be deemed to occur if the SEC has not affirmatively notified the Company on or prior to the 10th calendar day after filing the Proxy Statement) or that it has no further comments on the Proxy Statement;

(h) to the extent that clearance of the Proxy Statement or the Scheme Document by the Irish Takeover Panel might require that waivers or derogations in respect of the Takeover Rules be sought and obtained from the Irish Takeover Panel, make a submission for (and use reasonable best efforts to have approved) such waiver or derogation as promptly as reasonably practicable after having provided Parent with a reasonable opportunity to review and comment on such submission and considering in good faith such comments;

(i) provide Parent with drafts of any and all pleadings, affidavits, orders, originating notices of motion or other originating pleadings or notices of motion and other filings prepared by the Company for submission to the Irish High Court in connection with the Scheme prior to their filing, and afford Parent reasonable opportunities to review and comment on all such documents and consider in good faith such comments;

(j) as promptly as reasonably practicable (taking into account any requirements of the Irish Takeover Panel with respect to the Scheme Document and the SEC review (if any) with respect to the Proxy Statement, that must be satisfied prior to the release of the Scheme Document), but in any event not later than 4:30 p.m. on the Wednesday in the week falling immediately after the Clearance Date, the Company shall file the originating notice of motion, the notice of motion for entry to the commercial division of the Irish High Court and any ancillary court papers with the Central Office of the Irish High Court for the purpose of commencing the court application to seek directions under Section 450(5) of the Irish Companies Act as to the appropriate meetings to be held and to order that the Scheme Meeting be convened and, thereafter, as promptly as reasonably practicable, make all necessary applications to the Irish High Court in connection with the implementation of the Scheme (including the application for directions under Section 450(5) of the Irish Companies Act as to the appropriate meetings to be held and to order that the Scheme Meeting be convened as promptly as is reasonably practicable so as to be held within 35 calendar days of such directions), and to use its reasonable best efforts to ensure that the hearing of such proceedings occurs as promptly as is reasonably practicable in order to facilitate sending the Scheme Document and seek such directions of the Irish High Court as it considers necessary or desirable in connection with such Scheme Meeting and thereafter comply with such directions;

(k) procure the publication of the requisite advertisements and sending of the Scheme Document (in a form acceptable to the Irish Takeover Panel), Proxy Statement and the related forms of proxy for the use at the Scheme Meeting and EGM (the form of which shall be agreed between the Parties, acting reasonably) (i) to the Company Shareholders on the register of members of the Company on the record date as agreed with the Irish High Court, as promptly as reasonably practicable after securing approval of the Irish High Court to send such documents, and

(ii) to the holders of the Company Options and the Company Share Awards as of such date, for information only, as promptly as reasonably practicable after securing approval of the Irish High Court to send such documents, and thereafter shall publish or post such other documents and information (the form of which shall be agreed between the Parties, acting reasonably) as the Irish High Court or the Irish Takeover Panel may approve or direct from time to time;

(l) unless the Company Board has effected a Company Change of Recommendation pursuant to and in accordance with Section 5.2, procure that the Proxy Statement and the Scheme Document include the Scheme Recommendation;

(m) include in the Scheme Document a notice convening the EGM to be held immediately following the Scheme Meeting to consider and, if thought fit, approve the EGM Resolutions;

(n) prior to the Scheme Meeting, keep Parent reasonably informed on a reasonably current basis (in each case to the extent the Company reasonably has access to such information) of the number of proxy votes received in respect of the Resolutions, and in any event provide such number promptly upon the request of Parent or its Representatives and, unless the Company Board has effected a Company Change of Recommendation pursuant to and in accordance with Section 5.2, use commercially reasonable efforts to solicit proxies as may be necessary to pass the Resolutions at the Scheme Meeting or the EGM;

(o) unless this Agreement has been terminated pursuant to and in accordance with Section 9.1, hold the Scheme Meeting and EGM on the date set out in the Scheme Document, or such later date as may be agreed in writing by the Parties (such agreements not to be unreasonably withheld, conditioned or delayed), and in such a manner as shall be approved, if necessary, by the Irish High Court or the Irish Takeover Panel, and propose the Resolutions without any amendments, unless such amendments have been agreed to in writing by Parent, such agreement not to be unreasonably withheld, conditioned or delayed;

(p) subject to the terms of this Agreement, afford all such cooperation and assistance as may reasonably be requested of it by Parent in respect of the preparation and verification of any document or in connection with any Clearance or confirmation required for the implementation of the Scheme, including the provision to Parent in a timely manner of such information and confirmations relating to it, its Subsidiaries and any of its or their respective directors or employees as Parent may reasonably request;

(q) assume responsibility for the information contained in the Scheme Document, the Proxy Statement or any other document sent to the Company Shareholders or filed with the Irish High Court or in any announcement issued in connection with the Acquisition, other than information contained in any such document or announcement relating to Parent or Acquirer Sub;

(r) review and provide comments (if any) in a reasonably timely manner on all documentation submitted to it by or on behalf of Parent or Acquirer Sub;

(s) following the Scheme Meeting and EGM, assuming the Resolutions are duly passed (including by the requisite majorities required under Section 453 of the Irish Companies Act in the case of the Scheme Meeting) and all other Conditions are satisfied or, in the sole discretion of the applicable Party, waived (where permissible under the terms of the Rule 2.7 Announcement or the Scheme Document) (with the exception of paragraphs 2.3 and 2.4 of the Conditions and any other Conditions that are by their nature to be satisfied on the Sanction Date, but subject to the satisfaction or waiver (where permissible under the provisions of the Rule 2.7 Announcement or the Scheme Document) of such Conditions), take all necessary steps on the part of the Company to prepare and issue, serve and lodge all such court documents as are required to seek the sanction of the Irish High Court to the Scheme as soon as possible thereafter;

(t) give such undertakings as are required by the Irish High Court in connection with the Scheme as are reasonably necessary or desirable to implement the Scheme; and

(u) keep Parent reasonably informed as to the performance of the obligations and responsibilities required of the Company pursuant to the Scheme.

**3.2 Responsibilities of Parent and Acquirer Sub in Respect of the Scheme**.

Parent and Acquirer Sub shall:

(a) either (i) instruct counsel or a solicitor to appear on its behalf at the Scheme Meeting and undertake to the Irish High Court to be bound by the terms of the Scheme insofar as it relates to Parent or Acquirer Sub, or (ii) provide a written undertaking to the Irish High Court to be bound by the terms of the Scheme insofar as it relates to Parent or Acquirer Sub;

(b) if, and to the extent that, it or any of its Concert Parties owns or is interested in the Company Shares, exercise all of its rights and, insofar as lies within its powers, procure that each of its Concert Parties shall exercise all of their respective rights, in respect of such Company Shares so as to implement, and otherwise support the implementation of, the Scheme, including by voting (and, in respect of interests in the Company held via contracts for difference or other derivative instruments, insofar as lies within its powers, procuring that instructions are given to the holder of the underlying Company Shares to vote) in favor of the Resolutions or, if required by Law, the Irish High Court or the Irish Takeover Rules, refraining from voting, at any Scheme Meeting or EGM as the case may be;

(c) once the Scheme becomes effective, keep the Company reasonably informed as to the performance of the obligations and responsibilities required of Parent and Acquirer Sub pursuant to the Scheme;

(d) subject to the terms of this Agreement (including Section 7.2 hereof) and the Scheme, afford all such cooperation and assistance as may reasonably be requested of it by the Company in respect of the preparation and verification of any document or in connection with any Clearance or confirmation required for the implementation of the Scheme, including the provision to the Company in a timely manner of such information and confirmations relating to it, its Subsidiaries and any of its or their respective directors or employees as the Company may reasonably request (including for the purposes of preparing the Scheme Document);

(e) assume responsibility for the information relating to it or any of its Subsidiaries contained in the Scheme Document, the Proxy Statement or any other document sent to the Company Shareholders or filed with the Irish High Court or in any announcement issued in connection with the Transactions;

(f) review and provide comments (if any) in a reasonably timely manner on the Scheme Document, the Proxy Statement or any other document to be sent to the Company Shareholders or filed with the Irish High Court in connection with the Transaction submitted to it by the Company;

(g) to the extent that clearance of the Proxy Statement or the Scheme Document by the Irish Takeover Panel might require that waivers or derogations in respect of the Takeover Rules be sought and obtained from the Irish Takeover Panel in relation to matters that relate to Parent and/or any of its Concert Parties, make a submission for (and use reasonable best efforts to have approved) such waiver or derogation as promptly as practicable after having provided the Company with a reasonable opportunity to review and comment on such submission and considering in good faith such comments; and

(h) as promptly as practicable, notify the Company of any other matter of which it becomes aware which would reasonably be expected to materially delay or prevent filing of the Proxy Statement or the Scheme Document with the SEC and the Irish Takeover Panel, as applicable, or implementation of the Scheme, as the case may be.

**3.3 Mutual Responsibilities of the Parties**.

(a) If any of the Parties becomes aware of any information that, pursuant to the Irish Takeover Rules, the Irish Companies Act, the Securities Act or the Exchange Act, should be disclosed in an amendment or supplement to the Scheme Document or the Proxy Statement, then such Party shall promptly inform the other Party thereof and the Parties shall cooperate with each other in submitting or filing such amendment or supplement with the Irish Takeover Panel, the SEC or the Irish High Court, as applicable, and, if required, in sending such amendment or supplement to the Company Shareholders and, for information only, if required, to the Company Equity Award Holders. Each of the Parties agrees to promptly (i) correct any information provided by it specifically for inclusion or incorporation by reference in the Scheme Document or the Proxy Statement, as applicable, if and to the extent that such information shall have become false or misleading in any material respect and (ii) supplement the information provided by it specifically for inclusion or incorporation by reference in the Scheme Document or the Proxy Statement, as applicable, to include any information that shall become necessary in order to make the statements in the Scheme Document or the Proxy Statement, as applicable, in light of the circumstances under which they were made, not misleading. The Company further agrees to cause the Scheme Document or the Proxy Statement, as applicable, as so corrected or supplemented promptly to be filed with the Irish Takeover Panel and the SEC and to be sent to the Company Shareholders and for information only, if required, to the Company Equity Award Holders, in each case as and to the extent required by applicable Laws. For purposes of this Section 3.3(a), any information concerning the Company Group will be deemed to have been provided by the Company, and any information concerning the Parent Group will be deemed to have been provided by Parent or Acquirer Sub.

(b) Each Party shall provide the other Party with reasonable prior notice of any proposed material oral communication with the SEC, the Irish Takeover Panel or the Irish High Court and, except to the extent prohibited by the SEC, the Irish Takeover Panel or the Irish High Court, afford the other Party reasonable opportunity to participate therein, other than with respect to any such communication to the extent related to a Company Alternative Proposal or the termination of this Agreement pursuant to and in accordance with Section 9.

(c) Each Party shall promptly provide to each other Party, on request, a copy of any record, memorandum, agreement, contract, notice, certificate, article, letter, email, written communication, presentation, report, valuation, written consent or other document within the Party's possession or power of procurement, which that other Party is required to publish on a website pursuant to the Irish Takeover Rules.

**3.4 Dealings with the Irish Takeover Panel**.

(a) Each of the Parties will (x) give the other reasonable prior notice of any proposed meeting or material substantive discussion or correspondence between it or its Representatives with the Irish Takeover Panel, or any amendment to be proposed to the Scheme in connection therewith, and, except to the extent any such correspondence relates to a Company Alternative Proposal or the termination of this Agreement pursuant to and in accordance with Section 9, afford the other reasonable opportunities to review and make comments and suggestions with respect to the same and consider in good faith such comments and suggestions, and (y) except to the extent any such meeting, discussion, correspondence or submission relates to a Company Alternative Proposal or the termination of this Agreement pursuant to and in accordance with Section 9, keep the other reasonably informed of all such meetings, discussions or correspondence that it or its Representative(s) have with the Irish Takeover Panel and not participate in any meeting or discussion with the Irish Takeover Panel concerning this Agreement or the Transactions unless it consults with the other Party in advance, and, unless prohibited by the Irish Takeover Panel, gives such other Party the opportunity to attend and provide copies of all written submissions it makes to the Irish Takeover Panel and copies (or, where verbal, a verbal or written summary of the substance) of the Irish Takeover Panel responses thereto *provided* always that any correspondence or other information required to be provided under this Section 3.4 may be redacted:

(i) to remove references concerning the valuation of the businesses of the Company;

(ii) to prevent the exchange of confidential information as required by applicable Laws (*provided* that the redacting Party shall use its reasonable best efforts to cause such information to be provided in a manner that would not result in such confidentiality concerns); and

(iii) as necessary to address reasonable privilege concerns (*provided* that the redacting Party shall use its reasonable best efforts to cause such information to be provided in a manner that would not result in such privilege concerns).

(b) The Company undertakes, if so reasonably requested by Parent to, as promptly as reasonably practicable, provide its written consent to Parent and to the Irish Takeover Panel in respect of any application made by Parent to the Irish Takeover Panel:

(i) to redact any commercially sensitive or confidential information specific to Parent's financing arrangements for the Acquisition ("***Parent Financing Information***") from any documents that Parent is required to publish on a website pursuant to Rule 26.3(v)(b)(xi) of the Irish Takeover Rules;

(ii) for a derogation from the requirement under the Irish Takeover Rules to disclose Parent Financing Information in the Scheme Document, any supplemental document or other document sent to the Company Shareholders or the Company Equity Award Holders pursuant to the Irish Takeover Rules;

(iii) for a derogation from Rule 16.1 or 20.1 of the Irish Takeover Rules to permit Parent to implement, and to pay fees to lenders in connection with, its Financing and syndication arrangements with respect to its Financing, and to provide information to lenders and prospective lenders on such terms as the Irish Takeover Panel may permit; and

(iv) for a derogation from the disclosure requirements of Rule 24.4 of the Irish Takeover Rules, seeking consent to the aggregation of dealings for purposes of disclosure in the Scheme Document and seeking consent to the aggregation on a bi-weekly basis of changes in information announced pursuant to Rule 2.12 of the Irish Takeover Rules.

(c) Parent undertakes, if so requested by the Company to, as promptly as practicable, provide its written consent to the Company and to the Irish Takeover Panel in respect of any application made by the Company to the Irish Takeover Panel (i) to permit entering into and effecting the equity, retention, bonus and/or benefit arrangements contemplated by Section 5.1 of the Company Disclosure Schedule, and (ii) with respect to any matter set forth on Section 5.1 of the Company Disclosure Schedule.

(d) Subject to the terms and conditions of this Agreement, Parent and the Company undertake, if so requested by the other Party to, as promptly as reasonably practicable, issue its written consent to the other Party and to the Irish Takeover Panel in respect of any application reasonably requesting any derogation, permission or consent from the Irish Takeover Panel in connection with the Irish Takeover Rules, which consent shall also constitute consent for all purposes of this Agreement.

(e) Notwithstanding the foregoing provisions of this Section 3.4, neither the Company nor Parent shall be required to take any action pursuant to the foregoing provisions (a) through (d) if such action is prohibited by the Irish Takeover Panel (unless the Irish Takeover Panel decision is successfully appealed by either the Company or Parent).

(f) Nothing in this Agreement shall in any way limit the Parties' obligations under the Irish Takeover Rules.

**3.5 No Scheme Amendment by the Company**. Except as required by applicable Laws, the Irish High Court and/or the Irish Takeover Panel, and, where applicable, with the consent of the Irish High Court and/or the Irish Takeover Panel, the Company shall not take any of the following actions after sending the Scheme Document to the Company Shareholders, in each case, without the prior written consent of Parent (such consent not to unreasonably withheld, conditioned or delayed):

(a) amend the Scheme;

(b) adjourn or postpone (or propose an adjournment or postponement of) the Scheme Meeting or the EGM; *provided*, *however*, that the Company may, without the consent of, but after consultation with, Parent, adjourn or postpone (or propose to adjourn or postpone) the Scheme Meeting or EGM if (i) in the case of adjournment, such adjournment was requested by the Company Shareholders (but only to the extent the proposal for such adjournment was not proposed by the Company or any of its Affiliates or their respective Representatives), (ii) reasonably necessary to ensure that any required supplement or amendment to the Scheme Document or Proxy Statement is provided to the Company Shareholders or to permit dissemination of information which is material to the Company Shareholders voting at the Scheme Meeting or the EGM (but only for so long as the Company Board determines in good faith, after having consulted with outside counsel, as is reasonably necessary or advisable to give the Company Shareholders sufficient time to evaluate any such disclosure or information), or (iii) as of the time the Scheme Meeting or EGM is scheduled (as set out in the Scheme Document or Proxy Statement), there are insufficient Company Shares represented (either in person or by proxy) (A) to constitute a quorum necessary to conduct the business of the Scheme Meeting or the EGM (but only until a meeting can be held at which there are a sufficient number of Company Shares represented to constitute a quorum) or (B) voting for the approval of the applicable Resolutions (but only until a meeting can be held at which there are a sufficient number of votes of the Company Shareholders to approve the applicable Resolutions); *provided*, *further*, that, notwithstanding the foregoing, other than any adjournments or postponements required by applicable Laws, including adjournments or postponements to the extent reasonably necessary or advisable to ensure that any required supplement or amendment to the Proxy Statement is provided or made available to the Company Shareholders or to permit dissemination of information which is material to shareholders voting at the Scheme Meeting and EGM and to give the Company Shareholders sufficient time to evaluate any such supplement or amendment or other information, no such adjournment or postponement pursuant to clause (i) or (iii) shall, without the prior written consent of Parent (such consent not to be unreasonably withheld, conditioned or delayed), be for a period exceeding 10 Business Days and the Company may not adjourn or postpone the Scheme Meeting or the EGM pursuant to clause (i) or (iii) more than two times; or

(c) amend the Resolutions (in each case, in the form set out in the Scheme Document).

**3.6 Switching to a Takeover Offer**.

(a) Subject to the terms of this Section 3.6, in the event that Parent reasonably determines that a competitive situation (as that term is defined in the Irish Takeover Rules) exists or, based on facts known at the time, may reasonably be expected to arise in connection with the Acquisition, Parent may elect (subject to receiving the Irish Takeover Panel's consent, if required) to implement the Acquisition by way of the Takeover Offer (rather than the Scheme), whether or not the Scheme Document has been posted.

(b) If Parent elects to implement the Acquisition by way of the Takeover Offer, the Company undertakes to provide Parent and its Representatives as promptly as reasonably practicable with all such information about the Company Group (including directors and their connected persons) as may reasonably be required for inclusion in the Takeover Offer Document and to provide all such other assistance as may reasonably be required by the Irish Takeover Rules in connection with the preparation of the Takeover Offer Document, including reasonable access to, and ensuring the provision of reasonable assistance by, its management and Representatives.

(c) If Parent elects to implement the Acquisition by way of a Takeover Offer, the Company agrees:

(i) that the Takeover Offer Document will contain provisions consistent with the terms and conditions set out in the Rule 2.7 Announcement, the relevant Conditions and such other further terms and conditions as agreed (including any modification thereto) between Parent and the Irish Takeover Panel; *provided*, *however*, that the terms and conditions of the Takeover Offer shall be at least as favorable to the Company Shareholders and the Company Equity Award Holders as those which would apply in relation to the Scheme (except for the 80% acceptance condition contemplated by paragraph 9 of the Conditions);

(ii) to reasonably co-operate and consult with Parent in the preparation of the Takeover Offer Document or any other document or filing which is required for the purposes of implementing the Acquisition; and

(iii) that, subject to the obligations of the Company Board under the Irish Takeover Rules, and unless the Company Board has made a Company Change of Recommendation pursuant to and in accordance with Section 5.2, the Takeover Offer shall incorporate a recommendation to the Company Shareholders from the Company Board to accept the Takeover Offer and such recommendation shall not subsequently be withdrawn, adversely modified or qualified except as contemplated by Section 5.2.

(d) If Parent elects to implement the Acquisition by way of the Takeover Offer in accordance with Section 3.6(a), the Parties mutually agree:

(i) to prepare and file with, or submit to, the SEC, the Irish Takeover Panel and the Irish High Court, all documents, amendments and supplements required to be filed therewith or submitted thereto pursuant to the Irish Takeover Rules, the Securities Act, the Exchange Act, or otherwise by applicable Laws in connection with the Takeover Offer and to make any applications or initiate any appearances as may be required by or desirable to the Irish High Court for the purpose of discontinuing, cancelling or terminating the Irish High Court proceedings initiated in connection with the Scheme and, unless the Company Board has made a Company Change of Recommendation, each Party shall have reasonable opportunities to review and make comments on all such documents, amendments and supplements and, following good faith consideration of such comments by the other Party and approval of such documents, amendments and supplements by the other Party, which approval shall not be unreasonably withheld, conditioned or delayed, file or submit, as the case may be, such documents, amendments and supplements with or to the SEC, the Irish Takeover Panel and the Irish High Court (as applicable);

(ii) to provide the other Party with any comments received from the SEC, the Irish Takeover Panel or the Irish High Court on any documents filed by it with the SEC, the Irish Takeover Panel or the Irish High Court promptly after receipt thereof, other than with respect to any such documents to the extent related to a Company Alternative Proposal; and

(iii) to provide the other Party with reasonable prior notice of any proposed material oral communication with the SEC, the Irish Takeover Panel or the High Court and, except to the extent prohibited by the SEC, the Irish Takeover Panel or the High Court, afford the other Party reasonable opportunity to participate therein, other than with respect to any such communication to the extent related to a Company Alternative Proposal.

(e) If the Takeover Offer is consummated, Parent shall cause Acquirer Sub (or their respective designees) to effect as promptly as practicable, following it becoming entitled under the Irish Companies Act to do so, a compulsory acquisition of any Company Shares under Section 457 of the Irish Companies Act not acquired in the Takeover Offer for the same consideration per share as provided for in the Takeover Offer.

(f) For clarity and except as may be required by the Irish Takeover Rules (and without limiting any other provision of this Agreement), nothing in this Section 3.6 shall require the Company to provide Parent with any information with respect to, or to otherwise take or fail to take any action in connection with the Company's consideration of or response to, any actual or potential Company Alternative Proposal.

## SECTION 4. EQUITY AWARDS

**4.1 The Company Equity Awards**.

(a) **Company Options**. Each Company Option that is outstanding as of immediately prior to the Effective Time (whether or not vested) shall, as of the Effective Time, by virtue of the occurrence of the Effective Time and without any further action on the part of the holder thereof, Parent, or the Company, be canceled and converted into the right to receive cash, without interest, in an amount equal to the product of (i) the total number of Company Shares subject to such Company Option immediately prior to the Effective Time, multiplied by (ii) the excess of (A) the Consideration over (B) the exercise price payable per Share under such Company Option, which amount shall be paid in accordance with Section 8.2 (the "***Option Consideration***"). No holder of a Company Option that has an exercise price per Share that is equal to or greater than the Consideration shall be entitled to any payment with respect to any such canceled Company Option before or after the Effective Time, and any such Company Option shall be canceled and shall cease to exist as of the Effective Time and no consideration shall be delivered in exchange therefor.

(b) **Company Share Awards**.

(i) Each Company RSU Award that is outstanding as of immediately prior to the Effective Time (whether or not vested) shall, by virtue of the occurrence of the Effective Time and without any further action on the part of the holder thereof, Parent, or the Company (A) if granted to a non-employee member of the Company Board or held by a person who, as of the Completion Date, is a former service-provider of the Company, be canceled and converted into the right to receive a cash, without interest, amount equal to (w) the total number of Company Shares subject to such Company RSU Award immediately prior to the Effective Time multiplied by (x) the Consideration, which amount shall be paid in accordance with Section 8.2 (the "***RSU Cash Consideration***") and (B) if not granted to an individual described in clause (A), be canceled and converted into a restricted stock unit (each, a "***Parent RSU***") denominated in shares of common stock, $0.0001 par value, of Parent ("***Parent Common Stock***"). The number of shares of Parent Common Stock subject to each such Parent RSU shall be equal to the product (rounded down to the nearest whole number) of (y) the number of shares of Company Shares subject to such Company RSU Award immediately prior to the Effective Time multiplied by (z) the Equity Award Exchange Ratio. Except as specifically provided above, following the Effective Time, each such Parent RSU shall continue to be governed by the same terms and conditions (including vesting terms) as were applicable to the applicable Company RSU Award immediately prior to the Effective Time. For purposes of this Agreement, the term "***Equity Award Exchange Ratio***" means (1) the Consideration *divided by* (2) the volume weighted average of the per share closing price of Parent Common Stock on the Nasdaq (as reported in the Eastern Edition of *The Wall Street Journal* or, if not reported thereby, another authoritative source) for five (5) trading days ending on the second Business Day prior to the Completion.

(ii) Each Company PSU Award that is outstanding as of immediately prior to the Effective Time (whether or not vested) shall by virtue of the occurrence of the Effective Time without any further action on the part of the holder thereof, Parent, or the Company be canceled and converted into the right to receive a cash amount, without interest, equal to (A) the total number of Company Shares issuable in settlement of such Company PSU Award as set forth below ("***PSU Achievement***") multiplied by (B) the Consideration, which amount shall be paid in accordance with Section 8.2 (the "***PSU Consideration***"). PSU Achievement shall be determined in accordance with the terms of the applicable Company PSU Award, as determined by the Company Board or the compensation committee of the Company Board prior to the Effective Time, in consultation with, but not subject to the approval of, Parent.

**4.2 Further Actions**. Prior to the Effective Time, the Company Board (or, if appropriate, any committee thereof administering the Company Share Plans) shall take all actions, including by adopting any resolutions, obtaining any consents or approvals or otherwise, reasonably necessary to effectuate the transactions contemplated by this Section 4.

**4.3 Amendment of Articles**. The Company shall procure that a special resolution be proposed to the Company Shareholders at the EGM proposing that the Company Memorandum and Articles of Association be amended so that any Company Shares allotted following Scheme Record Time will either be subject to the terms of the Scheme or acquired by Parent for the same consideration per Company Share as shall be payable to the Company Shareholders under the Scheme (depending upon the timing of such allotment); *provided*, *however*, that nothing in such

amendment to the Company Memorandum and Articles of Association shall prohibit the sale (whether on a stock exchange or otherwise) of any Company Shares issued on the exercise of Company Options or vesting or settlement of Company Share Awards, as applicable, following the EGM but prior to the Scheme Record Time approved by the Irish High Court, it being always acknowledged that each and every Company Share will be bound by the terms of the Scheme.

## SECTION 5. THE COMPANY CONDUCT

**5.1 Conduct of Business by the Company**.

(a) From the date of this Agreement until the earlier of the Completion and termination of this Agreement pursuant to and in accordance with Section 9, except (w) as prohibited or required by applicable Laws, including Irish Takeover Rules or Nasdaq rules, (x) for any necessary or advisable actions taken in good faith to comply with or implement applicable local COVID-19 Measures, (y) as set out in Section 5.1 or 7.4(f) of the Company Disclosure Schedule, or (z) as otherwise required or expressly contemplated by this Agreement, unless Parent shall otherwise consent in writing (which consent shall not be unreasonably withheld, conditioned or delayed), the Company shall, and shall cause each of its Subsidiaries to, use commercially reasonable efforts (1) to conduct its business in the ordinary course of business and (2) to preserve intact its business organization and relationships with significant customers, suppliers, licensors, licensees and other Third Parties and keep available the services of its present officers and employees (without any obligation to put in place any retention program); *provided*, *however*, that no action taken by the Company or its Subsidiaries with respect to matters explicitly permitted by an exception to any of Section 5.1(b)(i) through (xviii) will be a breach of this sentence.

(b) Without limiting the generality of the foregoing, from the date of this Agreement until the earlier of the Completion and termination of this Agreement pursuant to and in accordance with Section 9, except (A) as prohibited or required by applicable Laws, including Irish Takeover Rules or Nasdaq rules, (B) as set out in Section 5.1 of the Company Disclosure Schedule, or (C) as otherwise required or expressly contemplated by this Agreement, without Parent's prior written consent (which shall not be unreasonably withheld, conditioned or delayed), the Company shall not, and shall cause each of its Subsidiaries not to:

(i) in the case of the Company and each of its Subsidiaries, amend its Organizational Documents other than, with respect to each Subsidiary, amendments to Organizational Documents that would not prohibit or hinder, impede or delay or otherwise adversely impact the consummation of the Transactions;

(ii) (A) subject to the provisions in Section 5.2, merge or consolidate with any other Person, or acquire (including by merger, consolidation, or acquisition of stock or assets), directly or indirectly, any interest in any corporation, partnership, other business organization or any division or business thereof or any assets, securities or property that (in the case of such assets, securities or property) constitute all or a material portion of such Person or any division or business thereof, other than transactions (x) solely among the Company and one or more of its wholly owned Subsidiaries or (y) solely among the Company's direct and indirect wholly owned Subsidiaries, or (B) adopt a plan of complete or partial liquidation, dissolution, recapitalization or restructuring, other than a liquidation or dissolution of any of the Company's immaterial wholly owned Subsidiaries;

(iii) (A) split, combine or reclassify any shares of its capital stock (other than transactions (1) solely among the Company and one or more of its wholly owned Subsidiaries or (2) solely among the Company's wholly owned Subsidiaries), (B) amend any term or alter any rights of any of its outstanding Equity Securities, (C) declare, set aside or pay any dividend or make any other distribution (whether in cash, stock, property or any combination thereof) in respect of any Equity Securities, other than dividends or distributions by a Subsidiary of the Company to the Company or a wholly owned Subsidiary of the Company or (D) redeem, repurchase, cancel or otherwise acquire or offer to redeem, repurchase, or otherwise acquire any of its Equity Securities or any Equity Securities of any Subsidiary of the Company, other than (x) repurchases or withholding of Company Shares in connection with the exercise of Company Options or the vesting or settlement of Company Share Awards (including in satisfaction of any amounts required to be deducted or withheld under applicable Laws) in accordance with the terms of such Company Equity Awards outstanding as of the date of this Agreement (in accordance with their existing terms as of the date of this Agreement) or granted after the date of this Agreement (to the extent permitted by Section 5.1 of the Company Disclosure Schedule) and (y) transactions among the Company and its wholly owned Subsidiaries or among the Company's wholly owned Subsidiaries;

(iv) issue, deliver or sell, or authorize the issuance, delivery or sale of, any Equity Securities, other than (A) the issuance of Company Equity Awards permitted by Section 5.1 of the Company Disclosure Schedule, the issuance of any Company Shares upon the exercise of Company Options, the issuance of any Company Shares in connection with any offering period in existence under the Company ESPP, the vesting or settlement of Company Share Awards, or the withholding of Company Shares to satisfy Tax obligations pertaining to the exercise of Company Options or the vesting or settlement of Company Equity Awards or to satisfy the exercise price, subject to applicable Law, with respect to Company Options or to effectuate an optionee direction upon exercise of Company Options that, in each case, are (x) outstanding as of the date of this Agreement and in accordance with the terms of the Company ESPP or Company Equity Awards (as applicable) in existence as of the date of this Agreement, or (y) granted after the date of this Agreement (to the extent permitted by Section 5.1 of the Company Disclosure Schedule), or (B) in connection with transactions (1) solely among the Company and one or more of its wholly owned Subsidiaries or (2) solely among the Company's wholly owned Subsidiaries;

(v) except as otherwise permitted under Section 5.1(b)(iv), (A) establish, adopt, terminate or materially amend any Employee Agreement or Employee Plan (or any plan, program, or practice that would be an Employee Agreement or an Employee Plan if it were in existence on the date of this Agreement), (B) increase in any manner the compensation or consulting fees, bonus, pension, welfare, fringe or other benefits, severance or termination pay of any employee of the Company or any of its Subsidiaries, (C) amend or waive any of its rights under, or accelerate the vesting under, any provision of any Employee Agreement or any of the material Employee Plans (or any plan, program, arrangement, practice or agreement that would be an Employee Agreement or an Employee Plan if it were in existence on the date of this Agreement), (D) materially change any actuarial or other assumptions used to calculate funding obligations with respect to any Employee Plan or Employee Agreement that is required by

applicable Law to be funded or change the manner in which contributions to such plans are made or the basis on which such contributions are determined or (E) forgive any loans or issue any loans (other than routine travel advances or other routine business expenses issued or incurred in the ordinary course of business) to any employee of the Company or any of its Subsidiaries, except as may be required by GAAP, except that the Company Group may: (1) make annual or quarterly bonus or commission payments for completed periods of performance based on actual performance in the ordinary course of business consistent with past practice, including bonus or commission payments pursuant to existing bonus or commission plans or Contracts and payments to employees; and (2) establish annual or quarterly commission or incentive compensation plans for employee sales force in the ordinary course of business consistent with past practice;

(vi) except as required pursuant to the terms of an existing Employee Plan or Employee Agreement, (A) enter into (1) any change-of-control agreement with any executive officer, employee, director or independent contractor or (2) any retention agreement with any executive officer, employee, director or independent contractor, (B) enter into any employment or other agreement providing for severance or termination benefits (1) that are more favorable than the severance or termination benefits provided by the severance plans or agreements in existence as of the date of this Agreement or (2) to any executive officer, director or non-executive employee with an annual base salary greater than $250,000 or any consulting agreement with an independent contractor who is a natural Person with an annual base compensation greater than $250,000, (C) except to fill vacancies due to a voluntary resignation, hire any executive officer, director or non-executive employee with an annual base salary in excess of $250,000 or (D) terminate the employment of any executive officer or non-executive employee with the title of vice president or higher, other than for cause;

(vii) make or authorize any capital expenditure that exceeds the amounts set out for the respective periods set forth in paragraph 19 of Section 5.1 of the Company Disclosure Schedule;

(viii) (A) acquire any assets or properties (including Intellectual Property), or (B) sell or otherwise dispose of, divest or spin-off, transfer, or assign any assets or properties (other than Intellectual Property, which is addressed in Section 5.1(b)(ix)), except (1) sale of the Company Group products in the ordinary course of business, (2) assets or properties otherwise permitted pursuant to Section 5.1(b)(vii), (3) pursuant to dispositions of obsolete, surplus or worn out assets that are no longer useful in the conduct of the business of the Company Group, (4) purchases of components, raw materials, drug product, inventory, marketing materials or equipment or other materials and supplies with respect to the Company's operations, drug product manufacturing, supply chain, marketing strategy or research and development, in each case, in the ordinary course of business, (5) intercompany assignment of assets or properties, (6) to the extent not in excess of $20,000,000 in the aggregate, or (7) as permitted under clause (vii);

(ix) sell, divest, transfer, assign, license, sublicense, grant a covenant not to assert with respect to, create or incur any Lien (other than a Permitted Lien) on, or otherwise abandon, cancel, let lapse or dispose of, any material Company Intellectual Property, except (A) solely between or among the Company Group; (B) with respect to applications of Registered IP, in the ordinary course of prosecution in the United States Patent and Trademark Office, United States Copyright Office, and foreign equivalents thereof, and (C) entry into (1) Standard Contracts or (2) non-exclusive license agreements, or the creation or incurrence of mortgages, liens, pledges, charges or security interests, in each case, in the ordinary course of business consistent with past practice;

(x) except for intercompany loans and capital contributions and sales commission advances made in the ordinary course of business consistent with past practice, lend money or make capital contributions or advances to or make investments in, any Person, or incur or guarantee any Indebtedness (including the issuance of any debt securities, warrants or other rights to acquire any debt security but except for short-term borrowings of not more than $15,000,000 in the aggregate, incurred in the ordinary course of business consistent with past practice and advances to employees and consultants for travel and other business related expenses in the ordinary course of business consistent with past practice);

(xi) commence any Legal Proceeding, except with respect to: (A) routine matters in the ordinary course of business (including patent infringement related to generic product filings); (B) such cases where the Company reasonably determines in good faith that the failure to commence suit would result in a material impairment of a valuable aspect of its business (*provided* that the Company consults with Parent and considers the views and comments of Parent with respect to such Legal Proceedings prior to commencement thereof); or (C) a breach of this Agreement or any other agreements contemplated hereby;

(xii) except as set forth in Section 7.10, settle, release, waive or compromise, or offer or propose to settle, release, waive or compromise, any Legal Proceeding or other claim (or threatened Legal Proceeding or other claim), other than (A) any Legal Proceeding relating to a breach of this Agreement or any other agreements contemplated hereby, or (B) a settlement that results solely in a monetary obligation involving only the payment of monies (without the admission of wrongdoing) by the Company Group of not more than $2,000,000 individually or $10,000,000 in the aggregate (net of insurance proceeds) and that does not involve any license, cross license or similar agreement with respect to rights to Intellectual Property;

(xiii) create or incur any Lien (other than a Permitted Lien) on any material assets or properties (other than Intellectual Property, which is addressed in Section 5.1(b)(ix)) other than (A) Liens created or incurred in the ordinary course of business consistent with past practice or (B) Liens that may be discharged at or prior to the Completion that are not material in amount or effect on the business of the Company Group;

(xiv) (A) enter into any Material Contract other than in the ordinary course of business consistent with past practice (*provided*, that no Contract of the type described in Sections 6.1(j)(ii), 6.1(j)(v) or 6.1(j)(xiv) shall be entered into without the prior written consent of Parent (which shall not be unreasonably withheld, conditioned or delayed)) or (B) terminate, renew, extend or in any material respect modify or amend (including waiving, releasing or assigning any material right or claim thereunder) any Material Contract, other than in the ordinary course of business consistent with past practice; *provided*, that, for purposes of this Section 5.1(b)(xiv), "Material Contracts" shall include any Company Contract that requires by its terms the payment or delivery of cash or other consideration by or to a member of the Company Group in an amount having an expected value in excess of $25,000,000 in any single fiscal year after 2022;

(xv) make any material change in any method of financial accounting or financial accounting principles or practices, except for any such change required by reason of (or, in the reasonable good-faith judgment of the Company, advisable under) a change in GAAP or applicable Laws;

(xvi) (A) make, change or revoke any material Tax election; (B) adopt or change any material method of Tax accounting; (C) enter into any material "closing agreement" within the meaning of Section 7121 of the Code (or any similar provision of state, local, or non-U.S. Law) with respect to Taxes; (D) settle, compromise or surrender any material Tax claim, audit or assessment for an amount in excess of reserves therefor on the financial statements of the Company and its Subsidiaries; (E) file any material amended Tax Return; (F) affirmatively surrender any right to claim a material Tax refund; or (G) take or cause any action which may reasonably be expected to cause the representations set forth in Section 6.1(p)(vi) or Section 6.1(p)(vii) to be untrue;

(xvii) enter into any collective bargaining agreement or other agreement with any labor organization or recognize or certify any labor union, works council or other labor organization as the bargaining representative for any employees of any member of the Company Group; or

(xviii) agree, commit or propose to do any of the foregoing.

Notwithstanding the foregoing, nothing contained herein shall give to Parent or Acquirer Sub, directly or indirectly, rights to control or direct the operations of the Company Group prior to the Effective Time. Prior to the Effective Time, the Company and each of the members of the Company Group shall exercise, consistent with the terms and conditions hereof, complete control and supervision of their respective operations.

**5.2 Non-Solicitation and Company Change of Recommendation**.

(a) **No Solicitation or Negotiation**. Subject to any actions which the Company is required to take so as to comply with the requirements of the Irish Takeover Rules, from the date of this Agreement until the earlier of the Effective Time and the termination of this Agreement pursuant to and in accordance with Section 9, except as otherwise set out in this Section 5.2, the Company shall not, and it shall cause its Subsidiaries and its and their respective directors, officers and employees not to, and it shall use reasonable best efforts to cause its and its Subsidiaries' other Representatives not to, directly or indirectly:

(i) solicit, initiate or take any action to knowingly facilitate or knowingly encourage (including by way of furnishing information to any Person in connection with) the submission of any Company Alternative Proposal or any indication, proposal or inquiry that would reasonably be expected to lead to a Company Alternative Proposal;

(ii) enter into, continue or participate in any discussions or negotiations with, furnish any non-public information relating to the Company or any of its Subsidiaries to, or afford access to the business, properties, assets, personnel, books or records of the Company or any of its Subsidiaries to, otherwise cooperate in any way with, or knowingly assist, participate in, knowingly facilitate or knowingly encourage any effort by, any Third Party that would reasonably be expected to seek to make, or has made, a Company Alternative Proposal or any indication, proposal or inquiry that would reasonably be expected to lead to a Company Alternative Proposal (except to notify such Person as to the existence of the provisions of this Section 5.2);

(iii) (A) withdraw or qualify, amend or modify in any manner adverse to Parent, the Scheme Recommendation or the recommendation contemplated by Section 3.6(b), if applicable, (B) fail to include the Scheme Recommendation in the Scheme Document or the Proxy Statement, (C) recommend, adopt or approve or publicly propose to recommend, adopt or approve any Company Alternative Proposal or (D) fail to reaffirm the Scheme Recommendation in a statement complying with Rule 14d-9 or Rule 14e-2(a) under the Exchange Act with regard to a Company Alternative Proposal or in connection with such action by the close of business on the 10th Business Day after the commencement of such Company Alternative Proposal under Rule 14d-9 or Rule 14e-2(a) (clauses (A) through (D) of the foregoing in this clause (iii), a *"**Company Change of Recommendation**"*);

(iv) take any action to make any "moratorium," "control share acquisition," "fair price," "supermajority," "affiliate transactions" or "business combination statute or regulation" or other similar anti-takeover laws and regulations under applicable Laws inapplicable to any Third Party or any Company Alternative Proposal;

(v) waive or release any Person from any standstill agreement or any standstill provisions of any Contract entered into in respect of a Company Alternative Proposal; or

(vi) enter into any agreement in principle, letter of intent, term sheet, merger agreement, acquisition agreement, option agreement or other agreement providing for or relating to a Company Alternative Proposal (other than a Company Alternative Proposal NDA).

Nothing contained herein shall prevent the Company Board from (x) complying with Rule 14e-2(a) or Rule 14d-9 under the Exchange Act with regard to a Company Alternative Proposal, so long as any action taken or statement made to so comply is consistent with this Section 5.2 or (y) making any required disclosure to the Company Shareholders if the Company Board determines in good faith, after consultation with outside legal counsel, that the failure to take such action would reasonably be expected to be inconsistent with applicable Laws; *provided* that any Company Change of Recommendation involving or relating to a Company Alternative Proposal may only be made in accordance with Sections 5.2(b), 5.2(c), 5.2(d) and 5.2(e). For clarity, a "*stop, look and listen*" disclosure or similar communication of the type contemplated by Rule 14d-9(f) under the Exchange Act shall not constitute a Company Change of Recommendation.

Additionally, the Company shall, and shall cause its Subsidiaries and its and their respective directors, officers and employees to, and shall use reasonable best efforts to cause its and its Subsidiaries' other Representatives to, cease immediately and cause to be terminated any and all existing activities, discussions or negotiations, if any, with any Third Party conducted prior to the date of this Agreement with respect to any Company Alternative Proposal or with respect to any indication, proposal or inquiry that would reasonably be expected to lead to a Company Alternative Proposal. The Company will promptly (and in each case within 36 hours from the date of this Agreement) request from each Person (and such Person's Representatives) that has executed

a confidentiality agreement during the past six months in connection with its consideration of a Company Alternative Proposal to return or destroy (as provided in the terms of such applicable confidentiality agreement) all confidential information concerning the Company or any of its Subsidiaries and shall promptly (and in each case within 36 hours from the date of this Agreement) terminate all physical and electronic data access previously granted to each such Person.

(b) **Responding to Company Alternative Proposals**. Notwithstanding Section 5.2(a), if at any time prior to the receipt of the Company Shareholder Approval (the "***Company Approval Time***") (and in no event after the Company Approval Time), the Company Board receives a written Company Alternative Proposal made after the date of this Agreement which has not resulted from a breach in any material respect of this Section 5.2, the Company Board, directly or indirectly through its Representatives, may (i) contact the Third Party that has made such Company Alternative Proposal in order to inform such Third Party of the terms of this Section 5.2 and clarify the terms of such Company Alternative Proposal for the sole purpose of the Company Board informing itself about such Company Alternative Proposal and such Third Party, and (ii) (x) engage in negotiations or discussions with any such Third Party that has made such an unsolicited written Company Alternative Proposal, (y) furnish to such Third Party and its Representatives and financing sources nonpublic information relating to the Company or any of its Subsidiaries pursuant to a confidentiality agreement with terms that are not materially less favorable in the aggregate to the Company than those contained in the Confidentiality Agreement (except that such confidentiality agreement need not contain a standstill or similar provision) and that does not include any restrictions that prohibits the Company from satisfying its obligations contemplated by this Section 5.2(b) (such agreement, a "***Company Alternative Proposal NDA***") *provided* that all such non-public information (to the extent that such information has not been previously provided or made available to Parent) is provided or made available to Parent, as the case may be, substantially concurrently with the time it is provided or made available to such Third Party; *provided*, *further*, that prior to and as a condition of taking any actions described in this Section 5.2(b), the Company Board determines in good faith, after consultation with its financial advisor and outside legal counsel, that such Company Alternative Proposal either constitutes or would reasonably be expected to lead to a Company Superior Proposal.

(c) **Notice**. The Company shall notify Parent promptly (but in any event within 36 hours) if any Company Alternative Proposal, or any indication, proposal or inquiry by a Third Party that would reasonably be expected to lead to a Company Alternative Proposal, is received by the Company. Each such notice shall be provided in writing and shall identify the Third Party making, and, to the extent applicable, the material terms and conditions (including price) of, any such Company Alternative Proposal or any such indication, proposal or inquiry by a Third Party. Following such initial notice, the Company shall keep Parent reasonably informed, on a reasonably current basis, of any material changes in the status and details of any such Company Alternative Proposal or any such indication, proposal or inquiry and shall promptly (but in no event later than 36 hours after receipt) provide to Parent copies of all written proposals, offers or draft agreements relating to a Company Alternative Proposal. Neither the Company nor any of its Subsidiaries will enter into any agreement with any Person which prohibits the Company from providing any information to Parent in accordance with, or otherwise complying with, this Section 5.2.

(d) **Fiduciary Exception to the Company Change of Recommendation Provision**. Notwithstanding anything to the contrary in this Agreement, but subject to Section 5.2(e), prior to the Company Approval Time (and in no event after the Company Approval Time), the Company Board may (A) in response to the receipt of a written Company Alternative Proposal received after the date hereof that did not result from a material breach of the Company's obligations set forth in this Section 5.2, or in response to the occurrence of a Company Intervening Event, make a Company Change of Recommendation, or (B) in response to the receipt of a written Company Alternative Proposal received after the date hereof that did not result from a material breach of the Company's obligations set forth in this Section 5.2, effect a Company Change of Recommendation and terminate this Agreement in accordance with Section 9.1(a)(ii)(B) in order to substantially concurrently enter into a definitive agreement providing for a Company Superior Proposal if, in each case of clause (A) and clause (B), (x) in the case of such an action taken in connection with a Company Alternative Proposal, the Company Alternative Proposal has not been withdrawn and the Company Board determines in good faith, after consultation with outside legal counsel and its financial advisor that such Company Alternative Proposal constitutes a Company Superior Proposal and (y) the Company Board determines in good faith, after consultation with its financial advisor and outside legal counsel, that the failure to take such action would be inconsistent with its directors' fiduciary duties under applicable Laws.

(e) **Last Look**. The Company Board and the Company, as applicable, shall not take any of the actions contemplated by Section 5.2(d) unless prior to taking such action (i) the Company has notified Parent, in writing at least four Business Days before taking such action, that the Company intends to take such action, which notice attaches, in the case of a Company Change of Recommendation pursuant to Section 5.2(d)(A) in response to a Company Superior Proposal or the termination of this Agreement pursuant to Section 5.2(d)(B) and Section 9.1(a)(ii)(B), the most current version of each proposed Contract providing for or related to such Company Superior Proposal (including any Contract relating to financing or expense reimbursement), the identity of the Third Party(ies) making the Company Superior Proposal or, in the case of a Company Intervening Event, a reasonably detailed description of the facts relating to such Company Intervening Event, (ii) if requested by Parent, during such four Business Day period, the Company and its Representatives shall have discussed and negotiated in good faith with Parent (to the extent that Parent desires to so discuss or negotiate) regarding any proposal by Parent to amend the terms of this Agreement in response to such Company Superior Proposal or other potential Company Change of Recommendation and (iii) after such four Business Day period, the Company Board determines in good faith, after consultation with its financial advisor and outside legal counsel and taking into account any proposal by Parent to amend the terms of this Agreement, that the failure to take such action would be inconsistent with its fiduciary duties under applicable Laws and, in the case of any such action in connection with a Company Alternative Proposal, such Company Alternative Proposal continues to constitute a Company Superior Proposal (it being understood and agreed that in the event of any amendment to the financial terms or other material terms of any such Company Superior Proposal, a new written notification from the Company consistent with that described in clause (i) of this Section 5.2(e) shall be required, and a new notice period under clause (i) of this Section 5.2(e) shall commence, during which notice period the Company shall be required to comply with the requirements of this Section 5.2(e) anew, except that such new notice period shall be for three Business Days (as opposed to four Business Days)). After delivery of such written notice pursuant to this Section 5.2(e), the Company shall promptly inform Parent of all material developments affecting the material terms of any such Company Superior Proposal.

## SECTION 6. REPRESENTATIONS AND WARRANTIES

**6.1 Company Representations and Warranties**. Subject to Section 10.8 and except as disclosed (i) in any publicly available Company SEC Document filed on or after January 1, 2020 and prior to the date of this Agreement or (ii) in the disclosure schedule delivered by the Company to Parent immediately prior to the execution of this Agreement (the "***Company Disclosure Schedule***"), the Company represents and warrants to Parent and Acquirer Sub as follows:

(a) **Qualification, Organization, Subsidiaries, etc**. The Company is duly incorporated and validly existing under the Laws of Ireland. The Company has all requisite corporate power and authority required to own or lease all of its properties or assets and to carry on its business as now conducted. The Company is duly qualified to do business and is in good standing in each jurisdiction where such qualification is necessary, except for those jurisdictions where failure to be so qualified or in good standing has not had and would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect. Prior to the date of this Agreement, the Company has made available to Parent true and complete copies of the Memorandum and Articles of Association of the Company as in effect as of the date of this Agreement (the "***Company Memorandum and Articles of Association***").

(b) **Subsidiaries**.

(i) Each Subsidiary of the Company is a corporation or other entity duly incorporated or organized, validly existing and in good standing (except to the extent such concept is not applicable under applicable Laws of such Subsidiary's jurisdiction of incorporation or organization, as applicable) under the Laws of its jurisdiction of incorporation or organization and has all corporate or other organizational powers and authority, as applicable, required to own, lease and operate its properties and assets and to carry on its business as now conducted, except for those jurisdictions where failure to be so organized, validly existing and in good standing or to have such power has not had and would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect. Each such Subsidiary is duly qualified to do business and is in good standing in each jurisdiction where such qualification is necessary, except for those jurisdictions where failure to be so qualified or in good standing has not had and would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect. The Company has made available true and correct copies of the Organizational Documents of the Company's Significant Subsidiaries that, in each case, are in full force and effect as of the date of this Agreement.

(ii) All of the outstanding Equity Securities of each Subsidiary of the Company have been validly issued and are fully paid and nonassessable (except to the extent such concepts are not applicable under applicable Laws of such Subsidiary's jurisdiction of incorporation or organization, as applicable) and are owned by the Company or one of its wholly-owned Subsidiaries, directly or indirectly, free and clear of any Lien (other than Permitted Liens and any restrictions imposed by applicable Laws) and free of preemptive rights, rights of first refusal, subscription rights or similar rights of any Person and transfer restrictions (other than Permitted Liens and transfer restrictions under applicable Laws or under the Organizational Documents of such Subsidiary). Except for the Equity Securities of its Subsidiaries, the Company does not own, directly or indirectly, any capital stock or other Equity Securities of any Person.

(c) **Capitalization**.

(i) The authorized capital of the Company consists of 600,000,000 Company Shares, and 40,000 Company Deferred Shares. As of December 9, 2022 (the "***Company Capitalization Date***"), there were outstanding (A) 226,962,593 Company Shares, (B) 40,000 Company Deferred Shares, (C) Company Options to purchase an aggregate of 4,997,294 Company Shares, (D) Company RSU Awards (other than the Company PSU Awards) providing for the issuance of up to an aggregate of 3,581,805 Company Shares and (E) Company PSU Awards providing for the issuance of up to an aggregate of 1,909,313 Company Shares, determined assuming the maximum number of shares to be issued under the Company PSU Awards. As of December 9, 2022, (X) 21,101,438 additional Company Shares were reserved for issuance pursuant to the Company Share Plans (excluding the Company ESPP), and (Y) 2,046,575 additional Company Shares were reserved for issuance pursuant to the Company ESPP. Except as set out in this Section 6.1(c) and for changes since the Company Capitalization Date resulting from (x) the exercise or vesting and settlement of the Company Equity Awards outstanding on such date (in accordance with their existing terms in effect as of the date of this Agreement) or issued on or after such date to the extent permitted by Section 5.1 (as qualified by or permitted under the Company Disclosure Schedule) or (y) the issuance of Equity Securities of the Company on or after the date of this Agreement to the extent permitted by Section 5.1 (as qualified by or permitted under the Company Disclosure Schedule) and Section 7.5 (with respect to an offering period in existence under the Company ESPP), there are no issued, reserved for issuance or outstanding Equity Securities of the Company.

(ii) All outstanding Company Shares have been, and all Company Shares that may be issued pursuant to any Company Share Plan, any employee stock option or other compensation plan or arrangement will be, when issued in accordance with the respective terms thereof, duly authorized and validly issued, fully paid and nonassessable and free of preemptive rights and Liens other than Permitted Liens. No Subsidiary of the Company owns any Equity Securities of the Company. There are no outstanding bonds, debentures, notes or other Indebtedness of the Company having the right to vote (or convertible into, or exchangeable for, securities having the right to vote) on any matters on which shareholders of the Company have the right to vote. As of the date of this Agreement, other than the Company Shares underlying the Company RSU Awards or Company PSU Awards, there are no outstanding obligations of the Company or any of its Subsidiaries to repurchase, redeem or otherwise acquire any Equity Securities of the Company or its Subsidiaries. Neither the Company nor any of its Subsidiaries is a party to any agreement with respect to the voting of any Equity Securities of the Company.

(iii) Each Company Option (A) was granted in compliance with all applicable Laws and all of the terms and conditions of the Company Share Plan pursuant to which it was issued, (B) has an exercise price per Company Share equal to or greater than the fair market value of a Company Share on the date of such grant, (C) has a grant date identical to the date on which the Company Board or the compensation committee thereof actually awarded such Company Option and (D) does not trigger any liability for the holder thereof under Section 409A of the Code.

(d) **SEC Filings; Financial Statements; Internal Controls and Procedures**.

(i) Since January 1, 2021, the Company has timely filed or furnished all reports, schedules, forms, statements and other documents (including exhibits and all other information incorporated therein) required to be filed or furnished by the Company with the SEC (the "***Company SEC Documents***"). As of their respective dates, the Company SEC Documents complied as to form, in all material respects with the requirements of the Securities Act, the Exchange Act or the Sarbanes-Oxley Act, as the case may be, the rules and regulations of the SEC promulgated thereunder applicable to such Company SEC Documents and the rules and regulations of Nasdaq. Except to the extent that information contained in any Company SEC Document has been revised, amended, modified or superseded (prior to the date of this Agreement) by a later filed Company SEC Document, none of the Company SEC Documents when filed or furnished contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading; *provided*, *that*, any such Company SEC Document that is a registration statement filed pursuant to the Securities Act did not contain any untrue statement of material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading on the date of the effectiveness of such Company SEC Document that is a registration statement. No member of the Company Group other than the Company is subject to the reporting requirements of Section 13(a) or Section 15(d) of the Exchange Act.

(ii) The consolidated financial statements of the Company (including any related notes and schedules) contained or incorporated by reference in the Company SEC Documents: (A) complied as to form in all material respects with applicable accounting requirements and the published rules and regulations of the SEC applicable thereto; (B) were prepared in accordance with GAAP applied on a consistent basis throughout the periods covered (except as may be indicated in the notes to such financial statements or as permitted by Regulation S-X, or, in the case of unaudited financial statements, as permitted by Form 10-Q, Form 8-K or any successor form under the Exchange Act); and (C) fairly present, in all material respects, the consolidated financial position of the Company and its consolidated Subsidiaries as of the respective dates thereof and the results of operations, shareholders' equity, consolidated income and changes in consolidated financial condition or cash flows of the Company and its consolidated Subsidiaries for the periods covered thereby (subject, in the case of the unaudited financial statements, to normal and recurring year-end adjustments that are not, individually or in the aggregate, material). No financial statements of any Person other than the Subsidiaries of the Company are required by GAAP to be included in the consolidated financial statements of the Company.

(iii) The Company maintains, and at all times since January 1, 2021, has maintained, a system of internal controls over financial reporting (as required and defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) which is designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with GAAP, and includes those policies and procedures that: (A) pertain to the maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of the assets of the Company; (B) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in conformity

with GAAP and that receipts and expenditures are being made only in accordance with authorizations of management and directors of the Company; and (C) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the assets of the Company Group that could have a material effect on its financial statements. Except as set out in the Company SEC Documents filed prior to the date of this Agreement, since January 1, 2021, neither the Company nor, to the knowledge of the Company, the Company's independent registered accountant has identified or been made aware of: (x) any significant deficiency or material weakness in the design or operation of internal controls over financial reporting utilized by the Company; (y) any illegal act or fraud, whether or not material, that involves the management or other employees of the Company Group; or (z) any claim or allegation regarding any of the foregoing.

(iv) The Company and its Subsidiaries maintain disclosure controls and procedures required by Rule 13a-15 or 15d-15 under the Exchange Act that are designed to provide reasonable assurance that all information required to be disclosed in the Company's reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the rules and forms of the SEC and that all such information is accumulated and communicated to the Company's management as appropriate to allow timely decisions regarding required disclosure and to enable each of the principal executive officer of the Company and the principal financial officer of the Company to make the certifications required under the Exchange Act and the Sarbanes-Oxley Act with respect to such reports. No executive officer of the Company has failed in any material respect to make the certifications required of them under Rules 13a-14 and 15d-14 under the Exchange Act and Sections 302 and 906 of the Sarbanes-Oxley Act and any related rules and regulations promulgated by the SEC or Nasdaq with respect to any Company SEC Document, and the statements contained in any such certifications are true and complete in all material respects as of the date on which they were made. No evidence of a material violation of securities Laws, breach of fiduciary duty or similar violation by the Company or any of its Representatives has been reported to the Company's chief legal officer, audit committee (or other committee of the Company Board designated for this purpose) or the Company Board pursuant to the rules adopted pursuant to Section 307 of the Sarbanes-Oxley Act.

(v) The Company is not a party to nor has any obligation or other commitment to become a party to any securitization transaction, off-balance sheet partnership or any similar Contract (including any Contract relating to any transaction or relationship between or among the Company, on the one hand, and any unconsolidated Affiliate, including any structured finance, special purpose or limited purpose entity, on the other hand, or any "off-balance sheet arrangements" (as defined in Item 303(a) of Regulation S-K under the Exchange Act)) where the result, purpose or intended effect of such Contract is to avoid disclosure of any material transaction involving, or material liabilities of, the Company Group in the Company's published financial statements or other Company SEC Documents.

(vi) As of the date of this Agreement, there are no outstanding or unresolved comments in comment letters received from the SEC with respect to the Company SEC Documents. To the knowledge of the Company, none of the Company SEC Documents is the subject of ongoing SEC review and there are no inquiries or investigations by the SEC or any internal investigations pending or threatened, in each case regarding any accounting practices of the Company. The Company has made available to Parent all material correspondence with the SEC since January 1, 2021 through the date of this Agreement.

(vii) The Company is in compliance in all material respects with all current listing and corporate governance requirements of Nasdaq.

(e) **Absence of Changes**.

(i) Since December 31, 2021 through the date of this Agreement, there has not occurred any event, change, effect, development or occurrence, individually or in the aggregate, that has had or would be reasonably expected to have, a Company Material Adverse Effect.

(ii) Since the date of the Balance Sheet through the date of this Agreement, (A) the Company Group has operated in all material respects in the ordinary course of business (except for discussions, negotiations and transactions related to this Agreement or any similar potential strategic transactions) and (B) no Company Group member has taken, or agreed, committed, arranged, authorized or entered into any written understanding to take any of the following actions: (1) (other than transactions solely among the Company and its wholly owned Subsidiaries) effected any recapitalization, reclassification, distribution, equity split or like change in its capitalization, amended any term or altered any rights of any of its outstanding Equity Securities, or redeemed, repurchased, canceled or otherwise acquired its Equity Securities or any Equity Securities of the Company; (2) subjected any material portion of its properties or assets to any material Liens, except for Permitted Liens; (3) sold or otherwise dispose of, divested or spun-off, assigned or transferred any material assets or properties, except in the ordinary course of business (including entering into Standard Contracts and non-exclusive license agreements, and the sale of obsolete assets, in each case, in the ordinary course of business); (4) except for intercompany loans and capital contributions and sales commission advances made in the ordinary course of business, made or authorized any capital investment in, or any material loan to, or guarantee any Indebtedness of any Person other than any Company Group member, except in the ordinary course of business or pursuant to any existing agreement or budget; (5) amended its Organizational Documents; (6) declared, set aside or paid any dividend or made any other distributions (whether in cash, stock, property or any combination thereof) in respect of any Equity Securities, other than dividends or distributions by a Subsidiary of the Company to the Company or a wholly owned Subsidiary of the Company; or (7) made any material change in any method of financial accounting or financial accounting principles or practices, except for any such change required by reason of (or, in the reasonable good-faith judgment of the Company, advisable under) a change in GAAP or applicable Laws.

(f) **Title to Assets**. The Company Group has good and valid title to, or a valid leasehold interest in, all material tangible properties and assets owned or leased, or purported to be owned or leased, by them, including all material tangible assets and properties reflected on the Company's unaudited balance sheet in the most recent Quarterly Report on Form 10-Q (the "***Balance Sheet***") filed by the Company with the SEC (but excluding Intellectual Property which is covered by Section 6.1(h)), except for assets sold or otherwise disposed of in the ordinary course of business since the date of such Balance Sheet, and except where such failure has not had and would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect. Such tangible assets and properties are, in the aggregate, sufficient to carry on the businesses of the Company Group, except as would not, individually or in the aggregate, reasonably be expected to result in a Company Material Adverse Effect.

(g) **Real Property**. Except as has not had and would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, (i) the Company Group has good, valid and marketable fee simple title to, or valid leasehold interests in, as the case may be, each parcel of real property owned (the "***Owned Real Property***") or leased (the "***Leased Real Property***") by the applicable member of the Company Group, free and clear of all Liens, except for Permitted Liens, (ii) each lease, sublease or license (each, a "***Lease***") under which the applicable member of the Company Group leases, subleases or licenses any real property is, subject to the Equitable Exceptions, a valid and binding obligation of the applicable member of the Company Group (as the case may be) and, to the knowledge of the Company, each of the other parties thereto, and is in full force and effect and enforceable in accordance with its terms against the applicable member of the Company Group (as the case may be) and, to the knowledge of the Company, each of the other parties thereto (except for such Leases that are terminated after the date of this Agreement in accordance with their respective terms, other than as a result of a default or breach by a member of the Company Group of any of the provisions thereof), (iii) no member of the Company Group, nor, to the knowledge of the Company, any of the other parties thereto has violated or committed or failed to perform any act which (with or without notice, lapse of time or both) would constitute a default under any provision of any Lease, and (iv) no member of the Company Group has received written notice that it has violated or defaulted under any Lease. The Owned Real Property and the Leased Real Property has been maintained in accordance with normal industry practice and is suitable for the purposes for which it is currently used. No member of the Company Group has received any written notice of any pending or threatened condemnation of any Owned Real Property or material Leased Real Property by any Governmental Entity, except as has not and would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect.

(h) **Intellectual Property**.

(i) Section 6.1(h)(i) of the Company Disclosure Schedule identifies (A) the name of the applicant/registrant (or the Internet domain name registrar, as applicable), (B) the jurisdiction of application/registration, (C) the application, patent or registration number and (D) any other co-owners, for each material item of Registered IP included in the Owned Intellectual Property. All material Registered IP included in the Owned Intellectual Property or included in material Licensed Intellectual Property exclusively licensed to the Company Group (collectively, the ("***Exclusive Company IP***") is subsisting, and, with respect to such material Registered IP that is issued and granted, to the Company's knowledge, is valid and enforceable. Other than as identified in the Company Disclosure Schedule, no interference, reissue, reexamination or other proceeding of any nature (other than patent or trademark prosecution activities being conducted before a Governmental Entity in the ordinary course of business) is pending or, to the knowledge of the Company, threatened, in which the scope, validity, enforceability, inventorship or ownership of any material Registered IP included in the Owned Intellectual Property or, to the knowledge of the Company, in any other Exclusive Company IP, is contested or challenged. Each member of the Company Group has complied in all material respects with its duty of candor and disclosure to the United States Patent and Trademark Office and any relevant foreign patent office with respect to all patent and trademark applications included in the Owned Intellectual Property or, to the extent and for the duration any member of the Company Group controls the prosecution and maintenance thereof, any other Exclusive Company IP, in each case filed by or on behalf of the Company Group and have made no material misrepresentation in such applications.

(ii) Except as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, the Company or any of its Subsidiaries solely owns all right, title and interest in and to all Owned Intellectual Property, free and clear of all Liens other than Permitted Liens, and to the knowledge of the Company, has the right, pursuant to valid agreements to use all other material Company Intellectual Property used by the Company Group in their businesses as currently conducted. The consummation of the Transactions will not result in the grant of any Lien with respect to any Intellectual Property owned or controlled by the Parent or any of its Affiliates (other than the Company Group), except as would not be material to the business of Parent or any of its Affiliates (other than the Company Group). Each Company Employee or independent contractor involved in the creation or development of any material Intellectual Property intended by the Company to be owned by any member of the Company Group has irrevocably assigned such Company Employee's or independent contractor's rights in such Intellectual Property to the Company or its applicable Subsidiary, except in any instance where a failure to do so would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect.

(iii) No funding, facilities or personnel of any Governmental Entity or any university, college, research institute or other educational institution are being used to create any material Owned Intellectual Property or, to the knowledge of the Company, any other material Company Intellectual Property, in each case, except for any such funding, facilities or personnel that would not result in such Governmental Entity or institution obtaining ownership rights in or other rights to use or exploit any Company Intellectual Property.

(iv) Section 6.1(h)(iv) of the Company Disclosure Schedule sets forth each license agreement pursuant to which a member of the Company Group (A) is granted a license under, covenant not to sue under or option to any of the foregoing under any material Intellectual Property that is incorporated into or distributed or used with any Company Product or that is otherwise material to the business of the Company Group, taken as a whole (each an "***In-bound License***") or (B) grants to any Third Party a license under, covenant not to sue under or option to any of the foregoing under any material Company Intellectual Property (each an "***Out-bound License***"), *provided* that, In-bound Licenses shall not include any material transfer agreements, sponsored research agreements, clinical trial agreements, nondisclosure agreements, services agreements, commercially available software-as-a-service offerings, off-the-shelf software licenses, non-material trademark co-existence agreements or generally available license agreements, in each case, entered into in the ordinary course of business, and Out-bound Licenses shall not include any material transfer agreements, sponsored research agreements, clinical trial agreements, nondisclosure agreements, services agreements, research agreements, distribution agreements, manufacturing agreements, non-material trademark co-existence agreements or non-exclusive out-bound licenses, in each case, entered into in the ordinary course of business (collectively, "***Standard Contracts***").

(v) The operation of the business of the Company Group as currently conducted does not infringe, misappropriate or violate, and has not infringed, misappropriated or violated since January 1, 2021, any Intellectual Property owned by any other Person; and, to the knowledge of the Company, no Person is infringing, misappropriating or otherwise violating, and has not infringed, misappropriated or violated since January 1, 2021, any Owned Intellectual Property or Licensed Intellectual Property exclusively licensed to any member of the Company Group. Since January 1, 2021, there has been no Legal Proceeding (A) pending (or, to the knowledge of the Company, threatened) against any of the members of the Company Group alleging that the operation of the business of the Company Group as currently conducted infringes or constitutes the misappropriation or other violation of any Intellectual Property of another Person, or (B) pending (or, to the knowledge of the Company, threatened) by any member of the Company Group that another Person has infringed, misappropriated or otherwise violated any of the Owned Intellectual Property or Licensed Intellectual Property exclusively licensed to any member of the Company Group.

(vi) The Company has taken commercially reasonable security, organizational, physical, administrative and technical measures, including measures designed to protect against unauthorized disclosure and designed to protect the secrecy, confidentiality, and value of its trade secrets and other material confidential technical information, and no such trade secret or other material confidential technical information has been disclosed by or on behalf of any member of the Company Group to, or, to the knowledge of the Company, has been discovered by, any Person, other than pursuant to valid non-disclosure obligations restricting the disclosure and use thereof, which obligations, to the knowledge of the Company, have not been breached.

(vii) As of the date of this Agreement, none of the Owned Intellectual Property or, to the knowledge of the Company, any other Exclusive Company IP, is subject to any outstanding Order that adversely and materially restricts the use, transfer, validity, enforceability, ownership, registration or licensing by any member of the Company Group of any such Exclusive Company IP.

(i) **Data Protection**.

(i) Except as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, since January 1, 2021, the members of the Company Group (A) to the knowledge of the Company, are, and have been, in compliance with all Data Security Requirements and (B) have not received, or otherwise been subject to, any written notices, complaints, notices, audits, proceedings, investigations or claims conducted or asserted by any other Person (including any Governmental Entity) regarding any unauthorized or unlawful Processing of Personal Information or other violation of any Data Security Requirements.

(ii) Except as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, since January 1, 2021, the Company Group have maintained and complied with commercially reasonable administrative, technical and physical safeguards that are designed to (A) prevent Security Incidents and (B) protect the confidentiality, integrity and availability of all Personal Information and Company IT Assets currently used by the Company Group. Except as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, and to the knowledge of the Company, since January 1, 2021, through the date of this Agreement, none of the members of the Company Group has experienced a Security Incident.

(iii) The Company IT Assets (A) operate and perform in all material respects in accordance with their documentation and functional specifications and otherwise as required by the Company Group in connection with its businesses, (B) have not malfunctioned or failed since January 1, 2021 in a manner that has had a material impact on the businesses of the Company Group, and (C) to the knowledge of the Company, are free from material bugs, material malicious codes or other material defects.

(j) **Contracts**. Section 6.1(j) of the Company Disclosure Schedule identifies each Company Contract (other than any Company Contract that is an Employee Plan identified in Section 6.1(q) of the Company Disclosure Schedule) that constitutes a Material Contract as of the date of this Agreement. For purposes of this Agreement, each of the following Company Contracts other than a Standard Contract shall be deemed to constitute a "***Material Contract***":

(i) any Company Contract that requires by its terms the payment or delivery of cash or other consideration by or to a member of the Company Group in an amount having an expected value in excess of $25,000,000 in the fiscal year ending December 31, 2022;

(ii) any Company Contract (x) having an expected value in excess of $20,000,000 in the fiscal year ending December 31, 2022 (A) containing any exclusivity obligations or otherwise limiting the freedom or right of any member of the Company Group (or upon the Completion by virtue of the consummation of the Acquisition, Parent and its Subsidiaries) in any material respect, to engage in any line of business, to make use of any material Company Intellectual Property (other than the scope of the rights granted by the terms of any In-bound or any Out-bound License to use such material Company Intellectual Property) or to compete with any other Person in any location or line of business, or (B) containing any "most favored nations" terms and conditions (including with respect to pricing) granted by a member of the Company Group or (y) or containing any exclusivity obligations or otherwise limiting the freedom or right of Parent or any of its Subsidiaries (other than the members of the Company Group), in any material respect, to engage in any line of business, to make use of any Intellectual Property or to compete with any other Person in any location or line of business, in each case, from and after the Completion;

(iii) any Company Contract relating to Indebtedness in excess of $30,000,000 (whether incurred, assumed, guaranteed or secured by any asset) of any member of the Company Group;

(iv) any Company Contract that provides for the creation of any Lien, other than a Permitted Lien, with respect to any tangible asset and Owned Intellectual Property of any Company Group member that is material to the conduct of the business of the Company Group as currently conducted, taken as a whole;

(v) any Company Contract constituting a joint venture, partnership, or limited liability company or the sharing of profits and losses;

(vi) any Company Contract that prohibits the payment of dividends or distributions in respect of the capital stock of the Company or any material Subsidiary, the pledging of the capital stock or other Equity Securities of the Company or any material Subsidiary or prohibits the issuance of any guaranty or the incurrence of any Indebtedness for borrowed money by the Company or any material Subsidiary;

(vii) any other Company Contract that is currently in effect and has been filed (or is required to be filed) by the Company as an exhibit pursuant to Item 601(b)(10) of Regulation S-K under the Securities Act or that would be required to be disclosed under Item 404 of Regulation S-K under the Securities Act;

(viii) any Company Contract with any Affiliate, director, executive officer, holder of 5% or more of the Company Shares or, to the knowledge of the Company, any of their Affiliates (other than the Company) or immediate family members that would be required to be disclosed under Item 404 of Regulation S-K that has not been otherwise disclosed in the Company SEC Documents filed prior to the date of this Agreement or with annual payments in the fiscal year ending December 31, 2021 in excess of $1,000,000, other than offer letters or employment agreements that can be terminated at will without severance obligations (or upon only the minimum severance and notice requirements required by applicable Laws) and Company Contracts with respect to Company Equity Awards;

(ix) any Company Contract having an expected payment obligation in excess of $10,000,000 in the fiscal year ending December 31, 2023, for the lease or sublease of any material real property;

(x) any Company Contract that provides for the acquisition or disposition of any business, or a material amount of stock or assets of any Person, in each case, for consideration in excess of $50,000,000 (whether by merger, sale of stock, sale of assets or otherwise) with material obligations remaining to be performed or material liabilities continuing after the date of this Agreement (other than indemnification obligations under which there are no pending claims or other provisions that customarily survive such performance);

(xi) any Company Contract with any Governmental Entity under which payments in excess of $20,000,000 were received by any member of the Company Group in the fiscal year ending December 31, 2021;

(xii) any In-bound License or Out-bound License;

(xiii) any hedging, swap, derivative or similar Company Contract; and

(xiv) any Company Contract with a sole-source supplier related to Tepezza, Krystexxa or Uplizna such that the inability to maintain supply from such supplier would materially impact product availability.

As of the date of this Agreement, the Company has made available to Parent or Parent's Representatives a true and correct copy of each Material Contract. Neither the applicable member of the Company Group nor, to the knowledge of the Company, the other party thereto is in material breach of or material default under any Material Contract and, neither the applicable member of the Company Group, nor, to the knowledge of the Company, the other party thereto has taken or failed to take any action that with or without notice, lapse of time or both would constitute a material breach of or material default under any Material Contract. To the knowledge of the Company, each Material Contract is enforceable by the applicable member of the Company Group in accordance with its terms, subject to the Equitable Exceptions. Since January 1, 2022 through the date of this Agreement, none of the members of the Company Group has received any written notice (x) regarding any violation or breach or default under any Material Contract that has not since been cured or (y) from any Person that such Person intends to terminate, or not renew, any Material Contract, in each case, except for such violations or breaches that would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect. Since January 1, 2021, no member of the Company Group has waived in writing any rights under any Material Contract, except for waivers that would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect. For the purposes of this final paragraph of this Section 6.1(j) (other than the first sentence), Material Contracts shall include any Company Contract in effect as of the date of this Agreement that requires by its terms the payment or delivery of cash or other consideration by or to any member of the Company Group in an amount having an expected value in excess of $25,000,000 in any single fiscal year after 2022.

(k) **Liabilities**. The Company Group does not have any liabilities of the type required to be disclosed in the liabilities column of a consolidated balance sheet of the Company and its Subsidiaries prepared in accordance with GAAP, except for: (i) liabilities reflected or reserved in the audited and unaudited financial statements included in the Company SEC Documents; (ii) liabilities or obligations incurred pursuant to the terms of this Agreement; (iii) liabilities for performance of obligations under Contracts binding upon the applicable member of the Company Group (other than resulting from any breach or acceleration thereof) made available to Parent or Parent's Representatives prior to the date of this Agreement or entered into in compliance with Section 5.1 or in the ordinary course of business, including Standard Contracts; (iv) liabilities incurred since the date of the Balance Sheet in the ordinary course of business or in connection with the Transactions (none of which would reasonably be expected to be material to the conduct of the business of the Company Group as currently conducted, taken as a whole); and (v) liabilities that would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect.

(l) **Compliance with Law**. Each member of the Company Group is, and since January 1, 2021, has been, in compliance with all applicable Laws and all applicable Orders, except where the failure to be in compliance would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect and, since January 1, 2021, no member of the Company Group has been given written notice of, or been charged with, any unresolved violation of, any Law or Order, except, in each case, for any such violation that would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect.

(m) **Regulatory Matters**.

(i) Since January 1, 2021, the Company Group has filed with the applicable regulatory authorities (including the FDA or any other Governmental Entity performing functions similar to those performed by the FDA) all required material filings, declarations, listings, registrations, reports or submissions, including but not limited to adverse event reports and investigational new drug safety reports. All such filings, declarations, listings, registrations, reports or submissions were in material compliance with applicable Laws when filed, and no deficiencies that have been asserted by any applicable Governmental Entity with respect to any such filings, declarations, listing, registrations, reports or submissions remain outstanding.

(ii) Except as would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect, all nonclinical and clinical investigations sponsored by or on behalf of the Company Group are, to the knowledge of the Company, being or have been conducted in material compliance with applicable Laws and guidance, including (A) Good Clinical Practices requirements, (B) applicable International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use guidelines, (C) approved clinical protocols and informed consents and (D) applicable Laws restricting the use and disclosure of individually identifiable health information. As of the date of this Agreement, neither the FDA nor any other foreign, federal, state or local governmental or regulatory authority performing functions similar to those performed by the FDA has sent any written notices or other correspondence to any member of the Company Group with respect to any ongoing clinical or nonclinical studies or tests requiring the termination, suspension or material modification of such studies or tests, which modification, individually or in the aggregate, would reasonably be expected to have a Company Material Adverse Effect.

(iii) To the Company's knowledge, since January 1, 2021, neither the members of the Company Group nor any Representative acting on any member of the Company Group's behalf has (A) made an untrue statement of a material fact or fraudulent statement to the FDA or any Governmental Entity having applicable jurisdiction over the Company Group under applicable Healthcare Laws, (B) failed to disclose a material fact required to be disclosed to the FDA or (C) committed any other act, made any statement or failed to make any statement, that (in any such case) establishes a reasonable basis for the FDA to invoke its Fraud, Untrue Statements of Material Facts, Bribery, and Illegal Gratuities Final Policy or for any Governmental Entity having applicable jurisdiction over the Company Group under applicable Healthcare Laws to invoke an equivalent policy. As of the date of this Agreement, none of any member of the Company Group nor, to the Company's knowledge, any entity or other Representative acting on any member of the Company Group's behalf is the subject of any pending or, to the Company's knowledge, threatened investigation in writing by the FDA pursuant to its Fraud, Untrue Statements of Material Facts, Bribery, and Illegal Gratuities Final Policy or by any Governmental Entity having applicable jurisdiction over the Company Group under applicable Healthcare Laws on the basis of an equivalent Policy.

(iv) Neither the Company nor, to the knowledge of the Company, any executive officers, employees, agents or clinical investigators of the Company Group or any entity or individual acting on the Company's behalf has been (A) debarred under 21 U.S.C. § 335a or any similar Law, (B) excluded from participation in federal health care programs under 42 U.S.C. §§ 1320a-7, 1320a-7a or any similar Law, (C) disqualified by any Governmental Entity, (D) suspended or otherwise determined to be or identified as ineligible to participate in any health care contracting program of any Governmental Entity or (E) convicted of, charged with, investigated for or engaged in any conduct that would reasonably be expected to result in such debarment, exclusion, disqualification, suspension, or ineligibility. No debarment, exclusion or disqualification proceedings or investigations are pending or, to the Company's knowledge, threatened against the Company or any officer, director, consultant, employee, manager or agent acting for or on behalf of the Company Group. No Legal Proceedings are pending or, to the Company's knowledge, threatened that would reasonably be expected to result in criminal liability, debarment, disqualification, or exclusion by any Governmental Entity.

(v) Except as, individually or in the aggregate, would not reasonably be expected to have a Company Material Adverse Effect, the Company Group is in compliance and since January 1, 2021, has been in compliance with all Healthcare Laws to the extent applicable to the operation of its business as currently conducted. The Company is not subject to any enforcement, regulatory or Legal Proceeding against or affecting the Company relating to or arising under any Healthcare Law, and no such enforcement, regulatory or Legal Proceeding has been threatened, including by the issuance of a warning letter, untitled letter, Form 483 or similar notice of potential violations of Healthcare Laws. To the extent required by applicable Laws, all manufacturing operations conducted for the benefit of any member of the Company Group with respect to any product or product candidate being used in human clinical trials have been conducted in accordance with GMP Regulations, except where the failure to so comply would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect.

(n) **Certain Business Practices**. To the Company's knowledge, neither the Company, nor any other member of the Company Group, nor any of its or their respective employees, representatives or agents (in each case, acting in the capacity of an employee or representative of any member of the Company Group) has (i) used any funds (whether of any member of the Company Group or otherwise) for unlawful contributions, gifts, entertainment or other unlawful expenses relating to political activity, (ii) made any unlawful payment to foreign or domestic Government Officials or employees or to foreign or domestic political parties or campaigns or (iii) violated any provision of any applicable Anti-Corruption Laws or any rules or regulations promulgated thereunder, any applicable anti-money laundering laws and any rules or regulations promulgated thereunder or any applicable Law of similar effect.

(o) **Regulatory Permits**. The Company Group holds all Regulatory Permits necessary to enable the Company Group to conduct its business in the manner in which its business is currently being conducted, except where failure to hold such Regulatory Permits would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect. The Regulatory Permits held by the Company Group are, in all material respects, valid and in full force and effect. The Company Group is in compliance with the terms and requirements of such Regulatory Permits, except where failure to be in compliance would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect.

(p) **Tax Matters**.

(i) Except as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, (A) each of the Tax Returns required to be filed by the Company Group with any Governmental Entity has been filed on or before the applicable due date (taking into account any extensions of such due date), and all such Tax Returns are accurate and complete, (B) all Taxes required to be paid have been paid, except with respect to matters being contested in good faith and in accordance with applicable Laws or for which

adequate reserves have been established in accordance with GAAP on the financial statements of the relevant member of the Company Group, (C) the Company Group has made adequate provision for all unpaid Taxes not yet due, (D) there are no Liens for Taxes upon any property or assets of any member of the Company Group, except for Permitted Liens, (E) during the last three years, no claim has been made in writing by a Tax Authority in a jurisdiction where a member of the Company Group does not file Tax Returns that such Person is or may be subject to taxation in that jurisdiction, and (F) neither the execution of this Agreement nor the Scheme will result in the loss, withdrawal or restriction of any applicable Tax holiday or reduced Tax rate granted by a Tax Authority to any member of the Company Group that is not generally available to Persons without specific application therefor.

(ii) Except as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, (A) no deficiency for any Tax has been asserted or assessed by a Tax Authority in writing against any member of the Company Group which deficiency has not been paid, settled or withdrawn or is not being contested in good faith and in accordance with applicable Laws, (B) there are no pending or ongoing, audits, examinations, investigations or other proceedings by any Tax Authority with respect to Taxes of or with respect to any member of the Company Group and (C) no member of the Company Group has received any form of written notice from any Tax Authority communicating an intent to initiate any such audit, examination, investigation or other proceeding.

(iii) None of the members of the Company Group (A) is a party to or is bound by any material Tax sharing, allocation or indemnification agreement or arrangement that would have a continuing effect after the Completion Date (other than such agreements or arrangements (x) exclusively between or among the members of the Company Group or (y) with third parties made in the ordinary course of business, the principal purpose of which is not Tax) or (B) has any material liability for the Taxes of another Person (other than members of the Company Group) under Treasury Regulations Section 1.1502-6 (or any similar provision of state, local or foreign Law), as a transferee or successor, or otherwise by operation of Law.

(iv) No member of the Company Group has been either a “distributing corporation” or a “controlled corporation” in a distribution of stock intended to qualify for Tax-free treatment under Section 355 of the Code in the last two years.

(v) To the knowledge of the Company, no member of the Company Group has entered into any “listed transaction” within the meaning of Treasury Regulations Section 1.6011-4(b)(2) or any similar transaction requiring disclosure in accordance with a corresponding provision of state, local or foreign Law.

(vi) The statements in Section 6.1(p)(vi) of the Company Disclosure Schedule, to the extent materially relevant to whether any member of the Company Group first became a surrogate foreign corporation after November 9, 2017, are true in all material respects, and to the knowledge of the Company no member of the Company Group first became a surrogate foreign corporation after November 9, 2017.

(vii) With respect to any taxable period or year, neither the Company nor any material member of the Company Group is, or has been treated as, a U.S. corporation under Section 7874(b) of the Code, and to the knowledge of the Company no other member of the Company Group is or has been treated as a U.S. corporation under Section 7874(b) of the Code.

(viii) Notwithstanding anything herein to the contrary, this Section 6.1(p) contains the sole representations concerning Taxes of the Company Group (other than representations concerning Taxes of the Company Group under Section 6.1(q)).

(q) **Employee Matters; Benefit Plans**.

(i) Except as required by applicable Laws, the employment of each of the Company's employees located in the United States is terminable by the Company at will.

(ii) None of the members of the Company Group is a party to, has no duty to bargain for, nor is currently negotiating in connection with entering into, any collective bargaining agreement or other Contract with a labor organization or works council representing any of its employees and there are no labor organizations or works councils representing, purporting to represent or, to the knowledge of the Company, seeking to represent any employees of the Company Group. Since January 1, 2021, through the date of this Agreement, there has not been any strike, slowdown, work stoppage, lockout, picketing or labor dispute, or any threat thereof affecting the Company Group or any of its employees. Since January 1, 2021, and except for those matters that would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, the Company Group has complied with all applicable Laws related to employment and employment practices, including any pertaining to payment wages and hours of work, leaves of absence, plant closing notifications, employment statutes or regulations, workplace health and safety, retaliation, or discrimination matters, including charges of unfair labor practices or harassment complaints, and, as of the date of this Agreement, there is no material Legal Proceeding pending or, to the knowledge of the Company, threatened in writing relating to such applicable Laws.

(iii) To the knowledge of the Company, in the last five years, (A) no allegations of sexual harassment, discrimination or sexual misconduct have been made against any member of the Company Board or any officer of the Company Group subject to the reporting requirements of Section 16(a) of the Exchange Act, (B) no member of the Company Group has entered into any settlement agreement related to allegations of sexual harassment, discrimination or sexual misconduct by any member of the Company Board or any officer of the Company Group subject to the reporting requirements of Section 16(a) of the Exchange Act and (C) there have been no, and there are no proceedings currently pending or, to the knowledge of the Company, threatened, related to any allegations of sexual harassment, discrimination or sexual misconduct by any member of the Company Board or any officer of the Company Group subject to the reporting requirements of Section 16(a) of the Exchange Act.

(iv) Section 6.1(q)(iv) of the Company Disclosure Schedule sets forth a true and complete list of the material Employee Agreements as of the date of this Agreement (A) the terms of which obligate the Company or any member of the Company Group to provide any severance or termination benefits to any employee, other than as may be required by applicable Laws; or (B) pursuant to which the Company or any member of the Company Group is obligated to provide any change-in-control, retention, or similar payment or benefits to any employee.

(v) Section 6.1(q)(v) of the Company Disclosure Schedule sets forth a true and complete list of the material Employee Plans.

(vi) The Company has made available to Parent or Parent's Representatives prior to the execution of this Agreement with respect to each material Employee Plan accurate and complete copies of the following (other than equity grant notices, and related documentation, with respect to employees of the Company Group and agreements with consultants entered into in the ordinary course of business), as relevant: (A) all plan documents and all amendments thereto, and all related trust or other funding documents; (B) any currently effective determination letter or opinion letter received from the United States Internal Revenue Service; (C) the most recent annual actuarial valuation and the most recent Form 5500; (D) the most recent summary plan descriptions and any material modifications thereto; (E) the most recent nondiscrimination tests required to be performed under the Code; and (F) copies of any non-routine correspondence with any Governmental Entity in the past two years.

(vii) Neither any member of the Company Group nor any other Person who would be or, at any relevant time, would have been considered a single employer with the Company under the Code or ERISA has during the past six years maintained, contributed to, or been required to contribute to a plan subject to Title IV of ERISA or Code Section 412, including any "single employer" defined benefit plan or any "multiemployer plan" each as defined in Section 4001 of ERISA.

(viii) Neither the Company nor any Subsidiary has any obligation to provide, and no Employee Plan or other agreement provides any individual with the right to, a gross up, indemnification, reimbursement or other payment for any excise or additional taxes, interest or penalties incurred pursuant to Section 409A or Section 4999 of the Code or due to the failure of any payment to be deductible under of Section 280G of the Code.

(ix) Each of the Employee Plans that is intended to be qualified under Section 401(a) of the Code has obtained a favorable determination letter (or opinion letter, if applicable) as to its qualified status under the Code. Except as would not reasonably be expected to, individually or in the aggregate, have a Company Material Adverse Effect, each of the Employee Plans and Employee Agreements is now and has been operated in compliance with its terms and all applicable Laws, including ERISA and the Code.

(x) Each Employee Plan and Employee Agreement that is a "nonqualified deferred compensation plan" (within the meaning of Section 409A of the Code) is in documentary compliance with, and has been operated and administered in all material respects in compliance with, Section 409A of the Code and the guidance issued by the Internal Revenue Service provided thereunder.

(xi) Except to the extent required under Section 601 *et seq*. of ERISA or 4980B of the Code (or any other similar state or local Law), neither any member of the Company Group nor any Employee Plan or Employee Agreement has any obligation to provide post-employment welfare benefits to or make any payment to, or with respect to, any present or former employee, officer or director of any member of the Company Group pursuant to any retiree medical benefit plan or other retiree welfare plan.

(xii) The execution and delivery of this Agreement, shareholder or other approval of this Agreement, or the consummation of the Transactions (including in combination with other events or circumstances) could not, (A) accelerate the time of payment or vesting, or materially increase the amount of, compensation or benefits due to any such Company Employee under any Employee Agreement or Employee Plan, (B) directly or indirectly cause any of the members of the Company Group to transfer or set aside any material assets to fund any benefits under any Employee Agreement or Employee Plan, (C) otherwise give rise to any material liability under any Employee Agreement or Employee Plan or (D) limit or restrict the right to merge, materially amend, terminate or transfer the assets of any Employee Agreement or Employee Plan on or following the Effective Time.

(xiii) Neither the execution and delivery of this Agreement, shareholder or other approval of this Agreement nor the consummation of the Transactions (including in combination with other events or circumstances) could result in the payment of any amount that could, individually or in combination with any other such payment, constitute an "excess parachute payment" as defined in Section 280G(b)(1) of the Code.

(xiv) As of the date of this Agreement, the Company has made available to Parent a true and complete list, as of the Company Capitalization Date, of all of the Company Share Plans, all outstanding Company Equity Awards, including, the date of grant, the type of the award, the number of Company Shares subject to such type of award (based on the aggregate number of shares granted on the grant date and vesting on the applicable vesting date), vesting schedule and, for the Company Options, the applicable exercise price.

(r) **Environmental Matters**. Except for those matters that would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, (i) (A) the Company Group is, and since January 1, 2021 has been, in compliance in with all applicable Environmental Laws, which compliance includes obtaining, maintaining or complying with all Governmental Authorizations required under Environmental Laws for the operation of their respective business, (B) as of the date of this Agreement, there is no investigation, suit, claim, action or Legal Proceeding relating to or arising under any Company Group that is pending or, to the knowledge of the Company, threatened in writing against any member of the Company Group or any Owned Real Property or Leased Real Property, and (C) as of the date of this Agreement, since January 1, 2021, none of the members of the Company Group has received any written notice, report, demand, letter, claim or other information of or entered into any legally-binding agreement, Order, settlement, judgment, injunction or decree involving uncompleted, outstanding or unresolved violations, liabilities or requirements on the part of the respective member of the Company Group relating to or arising under Environmental Laws, and (ii) to the knowledge of the Company (A) no property currently owned or operated by any member of the Company Group (including soils, groundwater, surface water, buildings and surface and subsurface structures) is contaminated with any Hazardous Substance which could reasonably be expected to require remediation or other action pursuant to any Environmental Law, (B) no member of the Company Group is subject to obligation or liability for any Hazardous Substance disposal or contamination on any Third Party property, (C) no natural person has been exposed to any Hazardous Substance at a property or facility of the Company Group at levels in excess of applicable permissible exposure levels or (D) there are no other circumstances or conditions involving any member of the Company Group that could reasonably be expected to result in any claim, obligation, liability, investigation, cost or restriction on the ownership, use or transfer of any property pursuant to any Environmental Law.

(s) **Insurance**. The Company has made available to Parent an accurate and complete copy of all material insurance policies and all material self-insurance programs and arrangements relating to the business, assets and operations of the Company Group as of the date of this Agreement (collectively, the "***Insurance Policies***"). All Insurance Policies are with reputable insurance carriers, provide reasonably adequate coverage for all normal risks incident to the business of the Company and its Subsidiaries as currently conducted and their respective properties and assets, and are in character and amount reasonably comparable to that carried by Persons engaged in similar businesses and subject to the same or similar risks to the same or similar extent. Except as would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect, all such insurance policies are in full force and effect (except for any expiration thereof in accordance with its terms), no notice of cancellation or modification has been received as of the date of this Agreement, and there is no existing default or event which, with the giving of notice or lapse of time or both, would constitute a default by any insured thereunder.

(t) **Legal Proceedings; Orders**.

(i) As of the date of this Agreement, there is no Legal Proceeding pending and served (or, to the knowledge of the Company, pending and not served or threatened) against any member of the Company Group or, to the knowledge of the Company, against any Company Employee in such individual's capacity as such, other than any Legal Proceedings that would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect.

(ii) As of the date of this Agreement, there is no Order to which a member of the Company Group or their respective assets is subject that is reasonably likely to have, individually or in the aggregate, a Company Material Adverse Effect.

(iii) As of the date of this Agreement, no investigation or review by any Governmental Entity with respect to any member of the Company Group is pending or, to the knowledge of the Company, is being threatened, other than any investigations or reviews that would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect.

(u) **Corporate Authority Relative to this Agreement**.

(i) The Company has all requisite corporate power and authority to enter into this Agreement and, subject to receipt of the Company Shareholder Approval, to consummate the Transactions, including the Acquisition. The execution and delivery of this Agreement and the consummation of the Transactions (including the Acquisition) have been duly and validly authorized by the Company Board and, except for (A) the Company Shareholder Approval and (B) the filing of the required documents and other actions in connection with the Scheme with, and to receipt of the required approval of the Scheme by, the Irish High Court, and registration by the Registrar of Companies of the Court Order and a copy of the minute required

by Section 86 of the Irish Companies Act, no other corporate proceedings on the part of the Company are necessary to authorize the consummation of the Transactions (including the Acquisition). On or prior to the date of this Agreement, the Company Board has determined that the Transactions are fair to and in the best interests of the Company and adopted a resolution to make, subject to Section 5.2 and to the obligations of the Company Board under the Irish Takeover Rules, the Scheme Recommendation and the recommendation contemplated by Section 3.6(b). This Agreement has been duly and validly executed and delivered by the Company and, assuming this Agreement constitutes the valid and binding agreement of the Parent Parties, constitutes the valid and binding agreement of the Company, enforceable against the Company in accordance with its terms, subject to the Equitable Exceptions.

(ii) The execution, delivery and performance by the Company of this Agreement and the consummation by the Company of the Transactions (including the Acquisition) require no action by or in respect of, Clearances of, or Filings with, any Governmental Entity other than (A) compliance with the provisions of the Irish Companies Act, (B) compliance with the Irish Takeover Panel Act and the Irish Takeover Rules, (C) compliance with any applicable requirements of the HSR Act, (D) compliance with and Filings under any applicable Antitrust Laws of any non-U.S. jurisdictions or Foreign Investment Laws, (E) compliance with any applicable requirements of the Securities Act, the Exchange Act and any other applicable U.S. state or federal securities laws or pursuant to the rules of the Nasdaq, and (F) any other actions, Clearances or Filings the absence of which has not had and would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect.

(v) **No Violation**. The execution, delivery and performance by the Company of this Agreement and the consummation of the Transactions (including the Acquisition) and thereby do not and will not (i) contravene, conflict with, or result in any violation or breach of any provision of the Organizational Documents of the Company, (ii) assuming (solely with respect to the performance under this Agreement by the Company and the consummation of the transactions contemplated by this Agreement) compliance with the matters referred to in Section 6.1(u)(ii) and receipt of the Company Shareholder Approval, contravene, conflict with or result in any violation or breach of any provision of any applicable Law, (iii) assuming (solely with respect to the performance under this Agreement by the Company and the consummation of the transactions contemplated by this Agreement) compliance with the matters referred to in Section 6.1(u)(ii), receipt of the Company Shareholder Approval, the Company Notes are discharged at or prior to the Effective Time, and the Company Credit Agreement is terminated and repaid in full at or prior to the Effective Time, require any Clearance or other action by any Person under, constitute a default, or an event that, with or without notice or lapse of time or both, would constitute a default under, result in additional payment obligations under or cause or permit the termination, cancellation, acceleration or other change of any right or obligation or the loss of any benefit to which any member of the Company Group is entitled under, any provision of any Material Contract binding upon any member of the Company Group or affecting, or relating in any way to, the assets or business of the Company and its Subsidiaries, or (iv) result in the creation or imposition of any Lien (other than Permitted Liens) on any asset or property of the Company or any of its Subsidiaries, except, in the case of each of clauses (ii) through (iv), as has not had and would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect.

(w) **Information Supplied**. The information provided by and relating to the Company and its Subsidiaries to be contained in the Scheme Document, the Proxy Statement and any other documents filed or furnished with or to the Irish High Court, the SEC or pursuant to the Irish Companies Act and the Irish Takeover Rules in each case in connection with the Acquisition will not, on the date the Scheme Document and the Proxy Statement (and any amendment or supplement thereto) is first mailed to the Company Shareholders and at the time of the Scheme Meeting, contain any untrue statement of any material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, at the time and in light of the circumstances under which they were made, not false or misleading.

(x) **Fairness Opinion**. The Company Board (in such capacity) has received the opinion of Morgan Stanley & Co LLC, as financial advisor to the Company, on or prior to the date of this Agreement, to the effect that, as of the date of such opinion and based on and subject to the matters set out therein, including the various assumptions made, procedures followed, matters considered and qualifications and limitations set out therein, the Consideration to be paid to the holders of Company Shares pursuant to this Agreement is fair, from a financial point of view, to such holders, and as of the date of this Agreement the foregoing opinion has not been withdrawn, revoked or modified in any respect. It is agreed and understood that such opinion is for the benefit of the Company Board. The Company shall deliver or make available to Parent solely for informational purposes a copy of the signed opinion as soon as practicable following the Company's receipt of such opinion.

(y) **Brokers and Other Advisors**. Except for Morgan Stanley & Co LLC and J.P. Morgan LLC, no broker, finder, investment banker, financial advisor or other Person is entitled to any brokerage, finder's or other similar fee or commission, or the reimbursement of expenses in connection therewith, in connection with the Transactions based upon arrangements made by or on behalf of the Company. The Company has made available to Parent (on an "outside counsel only" basis) correct and complete copies of all Contracts pursuant to which any broker, finder, investment banker, financial advisor or other Person is entitled to any fees, rights to indemnification and expenses in connection with any of the Transactions.

(z) **No Other Representations or Warranties; Acknowledgment by the Company**. Except for the representations and warranties expressly set out in this Section 6.1, none of the members of the Company Group nor any of their Affiliates nor any other Person on behalf of any of them is making or has made any express or implied representation or warranties of any kind or nature whatsoever, including with respect to the Company Group or its respective businesses or with respect to any other information made available to Parent, Acquirer Sub or their Representatives in connection with the Transactions, including the accuracy or completeness thereof and the Company hereby expressly disclaims any such other representations and warranties.

**6.2 Parent Representations and Warranties**. Subject to Section 10.8, each of Parent and Acquirer Sub jointly and severally represents and warrants to the Company as follows:

(a) **Qualification and Organization**. Each Parent Party is a legal entity duly organized, validly existing and in good standing under the laws of its jurisdiction of organization. Each Parent Party has all requisite corporate power and authority required to own or lease all of its properties or assets and to carry on its business as now conducted. Each Parent Party is duly qualified to do business and is in good standing in each jurisdiction where such qualification is necessary, except for those jurisdictions where failure to be so qualified or in good standing has not had and would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect. Prior to the date of this Agreement, Parent has made available to the Company true and complete copies of the Organizational Documents of each of Parent and Acquirer Sub, in each case, as in effect on the date of this Agreement. Acquirer Sub was formed solely for the purpose of engaging in the Transactions and activities incidental thereto and has not engaged in any business activities or conducted any operations other than in connection with the Transactions and those incident to its formation. Either Parent or a wholly owned subsidiary of Parent owns beneficially and of record all of the outstanding capital stock of Acquirer Sub.

(b) **Corporate Authority Relative to this Agreement**.

(i) Each of Parent and Acquirer Sub has all requisite corporate power and authority to enter into this Agreement and, with respect to Parent, to consummate the Transactions, including the Acquisition. The execution and delivery of this Agreement and the consummation of the Transactions (including the Acquisition) have been duly and validly authorized by the Parent board and, except for the filing of the required documents in connection with the Scheme with, and to receipt of the required approval of the Scheme by, the Irish High Court, no other corporate proceedings on the part of Parent or Acquirer Sub are necessary to authorize the consummation of the Transactions (including the Acquisition). This Agreement has been duly and validly executed and delivered by Parent and Acquirer Sub and, assuming this Agreement constitutes the valid and binding agreement of the Company, constitutes the valid and binding agreement of Parent and Acquirer Sub, enforceable against Parent and Acquirer Sub in accordance with its terms, subject to the Equitable Exceptions.

(ii) The execution, delivery and performance by Parent and Acquirer Sub of this Agreement (in the case of Parent, and the consummation by Parent and Acquirer Sub of the Transactions (including the Acquisition)) require no action by or in respect of, Clearances of, or Filings with, any Governmental Entity other than (A) compliance with the provisions of the Irish Companies Act, (B) compliance with the Irish Takeover Panel Act and the Irish Takeover Rules, (C) compliance with any applicable requirements of the HSR Act, (D) compliance with and Filings under any Antitrust Laws of any non-U.S. jurisdictions or any Foreign Investment Laws, (E) compliance with any applicable requirements of the Securities Act, the Exchange Act and any other applicable U.S. state or federal securities laws or pursuant to the rules of the Nasdaq, and (F) any other actions, Clearances or Filings the absence of which has not had and would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect.

(c) **No Violation**. Assuming compliance with the Scheme, the Act and any directions or orders of the Irish High Court, the execution, delivery and performance by Parent and Acquirer Sub of this Agreement and the consummation of the Transactions (including the Acquisition) do not and will not (A) contravene, conflict with, or result in any violation or breach of any provision of the Organizational Documents of Parent or Acquirer Sub, (B) assuming compliance with the matters referred to in Section 6.2(b)(ii), contravene, conflict with or result in any violation or breach of any provision of any applicable Law, (C) assuming compliance with the matters referred to in Section 6.2(b)(ii), require any Clearance or other action by any Person under,

constitute a default, or an event that, with or without notice or lapse of time or both, would constitute a default, under, or cause or permit the termination, cancellation, acceleration or other change of any right or obligation or the loss of any benefit to which Parent or any of its Subsidiaries is entitled under, any provision of any Parent permit or any Contract binding upon Parent or any of its Subsidiaries or affecting, or relating in any way to, the assets or business of Parent and its Subsidiaries, or (D) result in the creation or imposition of any Lien on any asset of Parent or any of its Subsidiaries, except, in the case of each of clauses (B) through (D), as has not had and would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect.

(d) **Investigations; Litigation**. As of the date of this Agreement, there is no Legal Proceeding pending or, to the knowledge of Parent, threatened in writing against or affecting Parent, any of its Subsidiaries, any present or former officers, directors or employees of Parent or any of its Subsidiaries in their respective capacities as such, or any of the respective properties or assets of Parent or any of its Subsidiaries, before (or, in the case of threatened Legal Proceedings, that would be before) any Governmental Entity (i) that has been or would reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect or (ii) that would in any manner challenge or seek to prevent, enjoin or alter any of the other Transactions. As of the date of this Agreement, there is no Order outstanding or, to the knowledge of Parent, threatened in writing against or affecting Parent, any of its Subsidiaries, any present or former officers, directors or employees of Parent or any of its Subsidiaries in their respective capacities as such, or any of the respective properties or assets of any of Parent or any of its Subsidiaries, that has been or would reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect.

(e) **Ownership of Shares**. Neither Parent nor any of Parent's Affiliates directly or indirectly owns, and at all times for the past three years, neither Parent nor any of Parent's controlled Affiliates has owned, beneficially or otherwise, any Company Share or any securities, contracts or obligations convertible into or exercisable or exchangeable for Company Share. Neither Parent nor Acquirer Sub has enacted or will enact a plan that complies with Rule 10b5-1 under the Exchange Act covering the purchase of any of the shares of the Company's capital stock.

(f) **Information Supplied**. The information provided by and relating to Parent and its Affiliates to be contained in the Scheme Document, the Proxy Statement and any other documents filed or furnished with or to the Irish High Court, the SEC or pursuant to the Irish Companies Act and the Irish Takeover Rules in each case in connection with the Acquisition will not, on the date the Scheme Document and the Proxy Statement (and any amendment or supplement thereto) is first proposed to the Company Shareholders and at the time of the Scheme Meeting, contain any untrue statement of any material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, at the time and in light of the circumstances under which they were made, not false or misleading.

(g) **Financing**.

(i) From the date of this Agreement to and including the Completion (or if earlier, the termination of this Agreement pursuant to and in accordance with Section 9), Parent and Acquirer Sub shall have, at all times, sufficient cash, available lines of credit or other sources of immediately available and cleared funds to enable Parent and Acquirer Sub to make all required payments payable on the Completion in connection with the Transactions, including the payment of expenses and fees (such amounts, collectively, the "***Financing Amounts***").

(ii) As of the date of this Agreement, Parent has delivered to the Company true, correct and complete copies, dated as of the date of this Agreement, of the fully executed Debt Agreement, together with all attached exhibits, schedules and annexes, and the fee letters (which may be redacted as described below) associated therewith (but excluding any side letters or other similar agreements which do not impact the amount or availability of the Financing or amend or, waive any of the terms of the Debt Agreement or expand the conditions to obtaining the Financing on or before the occurrence of Completion), to provide to Parent the amount of financing set forth in the Debt Agreement, in order to consummate the Transactions. As of the date of this Agreement, a true, correct and complete copy of each fee letter related to the Debt Agreement as in effect on the date of this Agreement has been provided to the Company, except that the fees and other customary "flex" terms (including provisions in such fee letter related to fees and economic terms) may have been redacted; *provided, however*, that no redacted term provides that the aggregate amount or net cash proceeds of the Financing set forth in the unredacted portion of the Debt Agreement could be reduced or adds or modifies any conditions or contingencies that affect the availability of all or any portion of the Financing. Parent has fully paid (or caused to be paid) all commitment and other fees, if any, required by the Debt Agreement that are due and payable on or before the date of this Agreement. As of the date of this Agreement and other than as set forth in the Debt Agreement and assuming the satisfaction or waiver of each of the Conditions at Completion, there are no conditions precedent to the funding of the full amount of the Financing as necessary to consummate the transactions contemplated by this Agreement and to satisfy all of the payment and other obligations of Parent and Acquirer Sub under this Agreement, and there are no contractual contingencies or other provisions under any agreement (including any side letters) relating to the Transactions to which Parent or Acquirer Sub or any of their respective Affiliates is a party that would permit the Financing Sources to reduce the total amount of the Financing or impose any additional conditions precedent to the availability of the Financing or that could affect the timing, termination or availability of the Financing necessary to consummate the Transactions.

(iii) As of the date of this Agreement, the Debt Agreement is a valid and binding obligation of Parent and, to the knowledge of Parent, each other party thereto, and is enforceable in accordance with its terms, subject, in each case, to Equitable Exceptions, and in full force and effect, and has not been amended, modified, withdrawn, terminated or rescinded in any respect. No such amendment, modification, withdrawal termination, or rescission is contemplated by Parent or, to the knowledge of Parent, any other party thereto (other than as set forth therein with respect to "flex" rights and/or to add additional lenders, arrangers, bookrunners, syndication agents and similar entities who had not executed the Debt Agreement as of the date of this Agreement). As of the date of this Agreement, assuming that each of the Conditions are satisfied at Completion, no event has occurred that (with or without notice, lapse of time or both) constitutes a breach or default under the Debt Agreement on the part of Parent. Other than customary engagement letters, the redacted fee letters provided in accordance with clause (ii) above or nondisclosure or non-reliance agreements which do not impact the conditionality or aggregate amount of the Financing, as of the date of this Agreement, there are no other contracts or side letters, or arrangements to which Parent or any of its Affiliates is a party related to the Financing, other than as expressly contained in the Debt Agreement or otherwise delivered to the Company.

As of the date of this Agreement, Parent does not have any reason to believe that any of the conditions to the Financing will not be satisfied or, assuming satisfaction or waiver of the conditions to the Financing, that the Financing will not be available to Parent on the date on which Completion shall occur.

(iv) Notwithstanding anything contained in this Agreement to the contrary, the obligations of the Parent Parties under this Agreement, including their obligations to consummate the Completion, are not conditioned in any manner upon the Parent Parties obtaining the Financing or any other financing.

(h) **No Other Representations or Warranties; Acknowledgment by Parent and Acquirer Sub**.

(i) Except for the representations and warranties expressly set out in this Section 6.2, neither Parent nor Acquirer Sub nor any of their Affiliates nor any other Person on behalf of any of them is making or has made any express or implied representation or warranties of any kind or nature whatsoever, including with respect to Parent, Acquirer Sub or their respective businesses or with respect to any other information made available to the Company Group or its Representatives in connection with the Transactions, including the accuracy or completeness thereof and Parent and Acquirer Sub hereby expressly disclaim any such other representations and warranties.

(ii) Parent and Acquirer Sub acknowledge and agree that, except for the representations and warranties made by the Company in this Agreement (as qualified by the Company Disclosure Schedule), none of the members of the Company Group nor any of their Affiliates nor any other Person is making or has made any representations or warranties, expressed or implied, at law or in equity, with respect to or on behalf of the Company Group, its businesses, operations, assets, liabilities, financial condition, results of operations, future operating or financial results, estimates, projections, forecasts, plans or prospects (including the reasonableness of the assumptions underlying such estimates, projections, forecasts, plans or prospects) or the accuracy or completeness of any information regarding the Company or any member of the Company Group or any other matter made available to Parent, Acquirer Sub or their Representatives in expectation of, or in connection with, this Agreement or the Transactions. Neither Parent nor Acquirer Sub is relying upon and each of Parent and Acquirer Sub specifically disclaims that it is relying upon or has relied upon any such other representations or warranties that may have been made by any Person and acknowledges and agrees that the Company and each member of the Company Group and their Affiliates have specifically disclaimed any such other representations and warranties.

(iii) Parent and Acquirer Sub have conducted their own independent investigation of the Company and the Company Group and the Transactions and have had an opportunity to discuss and ask questions regarding the Company and the Company Groups' businesses with the management of the Company.

## SECTION 7. ADDITIONAL AGREEMENTS

**7.1 Access to Information; Confidentiality; Notices of Certain Events**.

(a) Upon reasonable notice, the Company shall, and shall cause its Subsidiaries to, afford to Parent, its Subsidiaries and its and their respective Representatives and Financing Sources, reasonable access during normal business hours, during the period from the date of this Agreement to the earlier of the Completion and the date, if any, on which this Agreement is validly terminated pursuant to and in accordance with Section 9, to (i) its and its Subsidiaries' properties, contracts, commitments and books and records and (ii) all other information not made available pursuant to clause (i) of this Section 7.1(a) concerning its and its Subsidiaries' businesses, properties and personnel as Parent may reasonably request; *provided, however,* that any such access shall be conducted at Parent's expense, at a reasonable time and in compliance with then-applicable local COVID-19 Measures, under the supervision of appropriate personnel of the Company and in such a manner as not to unreasonably interfere with the normal operation of the business of the Company and its Subsidiaries; *provided, further*, that the Company shall be permitted to provide such information electronically or by other remote access where practicable. Any such access shall be subject to the Company's reasonable security measures and insurance requirements and shall not include invasive testing.

(b) Without limiting the generality of Section 7.1(a) (and subject to the limitations set forth therein), during the period from the date of this Agreement to the earlier of the Completion and the date, if any, on which the Agreement is validly terminated pursuant to and in accordance with Section 9, the Company agrees to, and to cause its Subsidiaries to, subject to applicable Law including Antitrust Law, (i) reasonably assist and reasonably cooperate with Parent and its Subsidiaries (A) to facilitate the post-Completion integration of the Company Group with Parent and its Subsidiaries (including, at the request of Parent from time to time, reasonably assisting and cooperating with Parent and its Affiliates in the planning and development of a post-Completion integration plan) and (B) by making reasonably available relevant Third Party advisors and employees on a mutually convenient basis, at the reasonable request of Parent from time to time, for post-Completion Tax planning and other Tax matters related to this Agreement (including any matters described in Section 7.13 or any other planning that is aimed at preserving or obtaining a Tax basis step up in the assets of the Company and its Subsidiaries for applicable Tax purposes, it being understood and agreed that neither the Company nor any of its Subsidiaries makes any representations regarding the availability or effectiveness of such Tax planning); *provided*, that (1) the Company is not hereby required (before the Completion) to make any Tax elections, transfers of entities, or take any other action or step that may be requested by Parent that (x) would have a greater than a *de minimis* effect on the Company or any of its Subsidiaries or shareholders, or (y) would reasonably be expected to prevent or delay the Completion, (2) Parent shall indemnify the Company for any and all costs and expenses (including any Taxes) that may result from any election or restructuring, or any other action as to which the Company incurs material costs and expenses, in each case requested by Parent from the Company or its Subsidiaries pursuant to this Section 7.1(b)(i)(B); and (3) that such cooperation shall not require any party to disclose any information subject to applicable privileges, including the attorney-client privilege, and (ii) provide reasonable access to key personnel identified by Parent to facilitate Parent's efforts with respect to the post-Completion retention of such key personnel.

(c) Notwithstanding anything to the contrary in this Section 7.1 or Section 7.2, neither the Company nor any of its respective Subsidiaries shall be required to provide access to, disclose information to or assist or cooperate with Parent, its Subsidiaries and its and their respective Representatives in each case if and to the extent such access, disclosure, assistance or cooperation (i) would jeopardize any attorney-client privilege with respect to such information, or (ii) would, as reasonably determined based on the advice of outside counsel, contravene any applicable Law or confidentiality obligations in any Contract to which any member of the Company Group is subject or bound; *provided* that the Company shall, and shall cause its Subsidiaries to, use reasonable best efforts to make appropriate substitute disclosure arrangements under circumstances in which such restrictions apply (including redacting such information (A) to remove references concerning valuation of the Company Group, (B) as necessary to comply with any Contract in effect on the date of this Agreement or after the date of this Agreement or with applicable Laws and (C) as necessary to address reasonable attorney-client, work-product or other privilege or confidentiality concerns, or entering into a joint defense or other arrangement) and to provide such information as to the applicable matter as can be conveyed. Each of the Company and Parent may, as each deems advisable and necessary, reasonably designate any competitively sensitive material provided to the other under this Section 7.1 or Section 7.2 as "Outside Counsel Only Material." Such materials and the information contained therein shall be given only to the outside counsel of the recipient and, subject to any additional confidentiality or joint defense agreement the Parties may mutually propose and enter into, will not be disclosed by such outside counsel to employees, officers or directors of the recipient unless express permission is obtained in advance from the source of the materials (the Company or Parent, as the case may be) or its legal counsel.

(d) Each Party shall promptly notify and provide copies to the other Party of the occurrence of any event which would or would reasonably be expected to (A) prevent or materially delay the consummation of the Scheme, the Acquisition or the other Transactions or (B) result in the failure of any Condition; *provided* that the delivery of any notice pursuant to this Section 7.1(d) shall not in and of itself (i) affect or be deemed to modify any representation, warranty, covenant, right, remedy, or condition to any obligation of any Party hereunder or (ii) update any section of the Company Disclosure Schedule. A failure of either Party to provide information pursuant to this Section 7.1(d) shall not constitute a breach for purposes of any Condition.

(e) The Parties hereby agree that all information provided to them or their respective Representatives pursuant to this Agreement shall be subject to the Confidentiality Agreement.

**7.2 Consents and Regulatory Approvals**.

(a) The terms of the Acquisition at the date of publication of the Scheme Document shall be set out in the Rule 2.7 Announcement and the Scheme Document, to the extent required by applicable Laws.

(b) Subject to the terms and conditions of this Agreement, each Party shall, and each shall cause its Subsidiaries to, use its respective reasonable best efforts to take, or cause to be taken, (i) all actions and to do, or cause to be done, all things necessary, proper or advisable, to the extent permitted by applicable Laws, to achieve satisfaction of the Conditions and to consummate the Acquisition and the other Transactions and (ii) all actions, to file, or cause to be filed, all documents and to do, or cause to be done, and to assist and cooperate with the other Parties in doing, all things necessary, proper or advisable under applicable Antitrust Laws to consummate and make effective the Transactions as soon as reasonably practicable, including: (A) the obtaining of all necessary Clearances and expirations or terminations of waiting periods from Governmental Entities and the making of all necessary registrations and filings and the taking of all steps as may be necessary to obtain any such Clearances or expiration or termination of a waiting period by or from, or to avoid an action or proceeding by, any Governmental Entity in connection with any Antitrust Law, (B) the obtaining of all necessary Clearances from Third Parties, and (C) the execution and delivery of any additional instruments necessary to consummate the Transactions.

(c) In furtherance and not in limitation of the foregoing, the Parties agree to use reasonable best efforts to, and cause their Affiliates to use reasonable best efforts to, promptly take all actions and steps requested or required by any Governmental Entity as a condition to granting any Clearances, and to cause the prompt expiration or termination of any applicable waiting period and to resolve objections, if any, of the FTC or DOJ, or other Governmental Entities of any Required Non-U.S. Jurisdiction so as to obtain such Clearances under the HSR Act or other Antitrust Laws, and to avoid the commencement of a lawsuit by the FTC, the DOJ or other Governmental Entities under Antitrust Laws, and to avoid the entry of, or to effect the dissolution of, any Order in any Legal Proceeding which would otherwise have the effect of preventing the Completion or delaying the Completion beyond the End Date, including (i) negotiating, committing to and effecting, by consent decree, hold separate order or otherwise, the sale, lease, license, divestiture or disposition of any assets, rights, product lines, or businesses of the Company or any of its Subsidiaries, (ii) terminating existing relationships, contractual rights or obligations of the Company or any of its Subsidiaries, (iii) terminating any venture or other arrangement of the Company or any of its Subsidiaries, (iv) creating any relationship, contractual rights or obligations of the Company or any of its Subsidiaries, (v) effectuating any other change or restructuring of the Company or any of its Subsidiaries and (vi) otherwise taking or committing to take any actions with respect to the businesses, product lines or assets of the Company or any of its Subsidiaries (the actions referred to in clauses (i) through (vi), collectively, "***Remedy Actions***"); *provided, however*, that, notwithstanding anything to the contrary herein (including the "reasonable best efforts standard" set forth in Section 7.2(b)), neither Parent nor any of its Affiliates shall be required to proffer, consent to or agree to or effect any Remedy Action (x) with respect to any assets, categories of assets or portions of any business of the Company or any of its Subsidiaries if, in each case, any such Remedy Action would, individually or in the aggregate, reasonably be expected to be material to the business, assets or financial condition of the Company and its Subsidiaries, taken as a whole or (y) with respect to the items listed on Section 7.2(c) of the Company Disclosure Schedule or (z) for the avoidance of doubt, with respect to any assets, categories of assets or portions of any business of Parent or its Affiliates (such effect referred to in clauses (x), (y), or (z), a "***Burdensome Condition***"); *provided*, *further*, that the Company shall only be permitted to take or commit to take such Remedy Action with the prior written consent of Parent; provided, further, that Parent may only require the Company to take or commit to take any such Remedy Action if such Remedy Action is binding on the Company only in the event the Completion occurs.

(d) Subject to the terms and conditions of this Agreement, each of the Parties hereto shall (and shall cause their respective Affiliates, if applicable, to) (i) promptly, but in no event later than 15 Business Days after the date of this Agreement (or such later date as may be agreed in writing among the Parties), make an appropriate filing of all Notification and Report forms as required by the HSR Act with respect to the Transactions and (ii) as promptly as reasonably practicable after the date of this Agreement and in any event no later than January 16, 2023 (or such later date as may be agreed in writing among the Parties), make all other filings, notifications or other consents as may be required to be made or obtained by such Party under foreign Antitrust Laws or Foreign Investment Laws in those jurisdictions identified in Section 7.2(d) of the Company Disclosure Schedule, which contains the list of the only non U.S. jurisdictions where filing, notification, expiration of a waiting period or consent or approval is a condition to Completion as agreed by the Parties (each, a "***Required Non-U.S. Jurisdiction***").

(e) Parent shall consult in advance with the Company, and take into account in good faith the views of the Company, regarding the strategy for all matters with any Governmental Entity; *provided, that*, in the event of a disagreement regarding such strategy, the determination of Parent shall be final so long as consistent with its obligations hereunder. Notwithstanding anything in this Agreement to the contrary, neither Party shall commit to or agree with any Governmental Entity to stay, toll or extend any applicable waiting period under the HSR Act, or pull and refile under the HSR Act, or other applicable Antitrust Laws or Foreign Investment Laws, without the prior written consent of the other Party (such consent not to be unreasonably withheld, conditioned or delayed). Without limiting the generality of anything contained in this Section 7.2, each Party hereto shall use its reasonable best efforts to (i) cooperate in all respects and consult with each other in connection with any filing or submission in connection with any investigation or other inquiry, including allowing the other Party to have a reasonable opportunity to review in advance and comment on drafts of filings and submissions, in each case, as required under applicable Antitrust Laws, (ii) give the other Parties prompt notice of the making or commencement of any request, inquiry, investigation or Legal Proceeding brought by a Governmental Entity or brought by a Third Party before any Governmental Entity, in each case, with respect to the Transactions under applicable Antitrust Laws, (iii) promptly keep the other Parties informed as to the status of any such request, inquiry, investigation, action or Legal Proceeding under applicable Antitrust Laws, (iv) promptly inform the other Parties of any communication to or from the FTC, DOJ or any other Governmental Entity in connection with any such request, inquiry, investigation or Legal Proceeding under applicable Antitrust Laws, (v) promptly furnish to the other Party, subject to an appropriate confidentiality agreement to limit disclosure to outside counsel and consultants retained by such counsel, with copies of documents, communications or materials provided to or received from any Governmental Entity in connection with any such request, inquiry, investigation, action or Legal Proceeding under applicable Antitrust Laws, (vi) subject to an appropriate confidentiality agreement to limit disclosure to counsel and outside consultants retained by such counsel, and to the extent reasonably practicable, consult in advance and cooperate with the other Parties and consider in good faith the views of the other Parties in connection with any substantive communication, analysis, appearance, presentation, memorandum, brief, argument, opinion or proposal to be made or submitted in connection with any such request, inquiry, investigation, action or Legal Proceeding under applicable Antitrust laws and (vii) except as may be prohibited by any Governmental Entity or by any Law, in connection with any such request, inquiry, investigation or Legal Proceeding in respect of the Transactions, each Party shall provide advance notice of and permit authorized Representatives of

the other Party to be present at each meeting or conference relating to such request, inquiry, investigation or Legal Proceeding under applicable Antitrust Laws and to have access to and be consulted in advance in connection with any argument, opinion or proposal to be made or submitted to any Governmental Entity in connection with such request, inquiry, investigation or Legal Proceeding under applicable Antitrust Laws; *provided* that documents and information provided to the other Party pursuant to this paragraph may be redacted (A) to remove references to valuation of the Company or the identity of alternative acquirers, (B) to comply with contractual arrangements, or (C) to protect privilege, and may be limited to outside counsel and outside consultants retained by such counsel. Each Party shall supply as promptly as practicable such information, documentation, other material or testimony that may be reasonably requested by any Governmental Entity, including by responding at the earliest reasonably practicable date with any request for additional information, documents or other materials, including any "second request" under the HSR Act, received by any Party or any of their respective Subsidiaries from any Governmental Entity in connection with such applications or filings for the Transactions under applicable Antitrust Laws. Parent and Acquirer Sub shall pay all filing fees under the HSR Act and for any filings required under Required Non-U.S. Jurisdictions, but the Company shall bear its own costs for the preparation of any such filings.

(f) Parent agrees that it shall not, and shall not permit any of its controlled Affiliates to, directly or indirectly, acquire or agree to acquire any assets, business or any Person (whether by merger, consolidation, license, purchasing a substantial portion of the assets of or equity in any Person or by any other manner) if the entering into of an agreement relating to or the consummation of such acquisition, merger, consolidation or purchase, whether individually or in the aggregate, would reasonably be expected to (i) impose any material delay in the expiration or termination of any applicable waiting period or impose any material delay in the obtaining of, or increase the risk of not obtaining, any Clearance under the HSR Act or any other Required Non-U.S. Jurisdiction, (ii) materially increase the risk of any Governmental Entity entering any permanent, preliminary or temporary injunction or other order, decree, decision, determination or judgment that would materially delay, restrain, prevent, enjoin or otherwise prohibit consummation of the Acquisition and the other Transactions or (iii) otherwise prevent the consummation of the Acquisition and the Transactions by the End Date.

(g) In the event that the latest date on which the Irish High Court or the Irish Takeover Panel would permit Completion to occur is prior to the End Date, the Parties shall use their respective reasonable best efforts to obtain consent of the Irish High Court or the Irish Takeover Panel, as applicable, to an extension of such latest date (but not beyond the End Date). If (i) the Irish High Court or the Irish Takeover Panel require the lapsing of the Scheme prior to the End Date, or (ii) the Condition set out in paragraph 1 of the Conditions fails to be satisfied, the Parties shall (unless and until this Agreement is terminated pursuant to and in accordance with Section 9) take all reasonable actions required in order to re-initiate the Scheme process as promptly as practicable (it being understood that no such lapsing described in clause (i) or (ii) shall, in and of itself, result in a termination of, or otherwise affect any rights or obligations of any Party under, this Agreement).

**7.3 Directors' and Officers' Indemnification and Insurance**.

(a) For a period of not less than six years from the Effective Date, Parent shall cause the Company or any applicable Subsidiary thereof (collectively, the "***D&O Indemnifying Parties***"), to the fullest extent each such D&O Indemnifying Party is so authorized or permitted by applicable Laws, as now or hereafter in effect, to: (i) indemnify and hold harmless, to the fullest extent permitted under the applicable Laws and pursuant to existing arrangements and Organizational Documents of the Company Group (as in effect as of the date of this Agreement) each person who is at the date of this Agreement, was previously, or during the period from the date of this Agreement through the date of the Effective Time, serving as a director or officer of the Company or any of its Subsidiaries, or at the request or for the benefit of the Company or any of its Subsidiaries as a director, trustee or officer of any other entity or any benefit plan maintained by the Company or any of its Subsidiaries (collectively, the "***D&O Indemnified Parties***"), as in effect as of the date of this Agreement, in connection with any D&O Claim and any losses, claims, damages, liabilities, Claim Expenses, judgments, fines, penalties and amounts paid in settlement (including all interest, assessments and other charges paid or payable in connection with or in respect of any thereof) relating to or resulting from a D&O Claim; and (ii) promptly advance to such D&O Indemnified Party any Claim Expenses incurred in defending, serving as a witness with respect to or otherwise participating with respect to any D&O Claim in advance of the final disposition of such D&O Claim, including payment on behalf of or advancement to the D&O Indemnified Party of any Claim Expenses incurred by such D&O Indemnified Party in connection with enforcing any rights with respect to such indemnification or advancement, in each case without the requirement of any bond or other security, but subject to the D&O Indemnifying Party's receipt of a written undertaking by or on behalf of such D&O Indemnified Party to repay such Claim Expenses if it is ultimately determined under applicable Laws that such D&O Indemnified Party is not entitled to be indemnified. All rights to indemnification and advancement conferred hereunder shall continue as to a Person who has ceased to be a director or officer of the Company or any of its Subsidiaries after the date of this Agreement and shall inure to the benefit of such Person's heirs, successors, executors and personal and legal representatives. As used in this Section 7.3: (x) the term "***D&O Claim***" means any threatened, asserted, pending or completed Legal Proceeding, whether instituted by any Governmental Entity or any other Person, arising out of or pertaining to acts or omissions occurring at or prior to the Effective Time that relate to such D&O Indemnified Party's duties or service (A) as a director or officer of the Company or the applicable Subsidiary thereof at or prior to the Effective Time (including with respect to any acts, facts, events or omissions occurring in connection with the approval of this Agreement, the Scheme, the Acquisition and the consummation of the other Transactions (including the Acquisition), including the consideration and approval thereof and the process undertaken in connection therewith) or (B) as a director, trustee or officer of any other entity or any benefit plan maintained by the Company or any of its Subsidiaries (for which such D&O Indemnified Party is or was serving at the request or for the benefit of the Company or any of its Subsidiaries) at or prior to the Effective Time; and (y) the term "***Claim Expenses***" means reasonable out-of-pocket attorneys' fees and all other reasonable out-of-pocket costs, expenses and obligations (including experts' fees, travel expenses, court costs, retainers and transcript fees) paid or incurred in connection with investigating, defending, being a witness in or participating in (including on appeal), or preparing to investigate, defend, be a witness in or participate in any D&O Claim for which indemnification is authorized pursuant to this Section 7.3(a), including any action relating to a claim for indemnification or advancement brought by a D&O Indemnified Party.

(b) For a period of not less than six years from the Effective Date, Parent shall cause the Organizational Documents of the Company and its Subsidiaries to contain provisions no less favorable with respect to indemnification, advancement of expenses and limitations on liability of directors and officers than are set out in the Organizational Documents of the Company and its Subsidiaries as of the date of this Agreement, which provisions shall not be amended, repealed or otherwise modified for a period of at least six years from the Effective Date in any manner that would adversely affect the rights thereunder of any D&O Indemnified Party, unless any modification or amendment is required by applicable Laws (but then only to the extent required by applicable Laws). At the Company's option and expense, prior to the Effective Time, the Company may purchase (and pay in full the aggregate premium for) a six-year prepaid "tail" insurance policy (which policy by its express terms shall survive the Acquisition) of at least the same coverage and amounts and containing terms and conditions that are no less favorable to the directors and officers of the Company and its Subsidiaries as the Company's and its Subsidiaries' existing directors' and officers' insurance policy or policies with a claims period of six years from the Effective Time for D&O Claims arising from facts, acts, events or omissions that occurred on or prior to the Effective Time; *provided* that the premium for such tail policy shall not exceed 300% of the annual amount currently paid by the Company and its Subsidiaries for such insurance (such amount being the "***Maximum Premium***"). If the Company fails to obtain such tail policy prior to the Effective Time, Parent shall obtain such a tail policy; *provided*, *however*, that the premium for such tail policy shall not be required to exceed the Maximum Premium; *provided*, *further*, that if such tail policy cannot be obtained or can be obtained only by paying a premium in excess of the Maximum Premium, Parent shall only be required to obtain as much coverage as can be obtained by paying a premium equal to the Maximum Premium. Parent and the Company shall cause any such policy (whether obtained by Parent or the Company) to be maintained in full force and effect, for its full term, and Parent shall, following the Effective Time, cause the Company to honor all its obligations thereunder.

(c) If Parent or the Company or any of their respective successors or assigns (i) consolidates with or merges with or into any other Person and shall not be the continuing or surviving company, partnership or other Person of such consolidation or merger or (ii) liquidates, dissolves or winds-up, or transfers or conveys all or substantially all of its properties and assets to any Person, then, and in each such case, proper provision shall be made so that the successors and assigns of Parent or the Company, as applicable, assume the obligations set out in this Section 7.3.

(d) The provisions of this Section 7.3 are intended to be for the express benefit of, and shall be enforceable by, each D&O Indemnified Party (who are intended to be third party beneficiaries of this Section 7.3), his or her heirs and his or her personal Representatives, shall be binding on all successors and assigns of Parent, and following the Effective Time, the Company. The exculpation and indemnification provided for by this Section 7.3 shall not be deemed to be exclusive of any other rights to which a D&O Indemnified Party is entitled, pursuant to applicable Laws or Contract made available to Parent prior to the date of this Agreement.

**7.4 Employment and Benefit Matters**.

(a) From the date of Completion through the first anniversary of the Effective Time (or, if shorter, the period of employment of the relevant Continuing Employee) (the "***Benefits Continuation Period***"), Parent shall provide or shall cause Acquirer Sub to provide, to (i) each Continuing Employee a base salary or hourly rate that is no less favorable than the base salary or hourly rate provided to such Continuing Employee immediately prior to the Effective Time, (ii) each Continuing Employee target annual or quarterly cash bonus, incentive compensation (excluding any special, retention or one-time award opportunities) and commissions opportunities (as applicable) that are no less favorable than the target annual or quarterly cash bonus, incentive compensation (excluding any special, retention or one-time award opportunities) and commissions opportunities provided to such Continuing Employee immediately prior to the Effective Time, and (iii) to the Continuing Employees as a group, employee benefits that are, in the aggregate, no less favorable than the employee benefits provided to similarly-situated employees of Parent and its Subsidiaries; *provided* that for purposes of determining whether such employee benefits are no less favorable in the aggregate, any equity, defined benefit pension plan benefits, nonqualified deferred compensation, retiree health or welfare benefits, post-termination health or welfare benefits, and retention or change in control payments or awards shall not be taken into account.

(b) In addition, Acquirer Sub shall provide, and Parent shall cause Acquirer Sub to provide, to each Continuing Employee who experiences a termination of employment during the Benefits Continuation Period, severance, termination and similar benefits that are no less favorable than the severance, termination and similar benefits to which such Continuing Employee would have been entitled upon such a termination of employment under any Employee Plan that is a severance plan, policy, program, agreement or arrangement and set out on Section 7.4(b) of the Company Disclosure Schedule (collectively, the "***Severance Arrangements***") and in which such Continuing Employee was eligible to participate as of immediately prior to the Effective Time. For purposes of determining compliance with this Section 7.4(b), only the existing terms of the Severance Arrangements will be taken into account, and any modifications to the Severance Arrangements that are effective after the date of this Agreement but prior to the Effective Time (and are made without Parent's advance written consent) will be disregarded.

(c) For purposes of vesting, eligibility to participate and determining level of benefits under the employee benefit plans of Parent or any Affiliate providing benefits to any Continuing Employees following the Effective Time (the "***New Plans***"), each Continuing Employee shall be credited with his or her years of service with the Company Group and its predecessors before the Effective Time, to the same extent and for the same purpose as such Continuing Employee was entitled, before the Effective Time, to credit for such service under the corresponding Employee Plan in which the Continuing Employee participated or was eligible to participate immediately prior to the Effective Time, *provided* that the foregoing shall not apply with respect to (i) any defined benefit pension plan or any retiree or post-termination health or welfare benefits, (ii) any benefit plan that is frozen or for which participation is limited to a grandfathered population, (iii) any cash- or equity-based compensation arrangements, or (iv) to the extent that its application would result in a duplication of benefits or compensation with respect to the same period of service, and *provided*, *further*, that such service shall only be credited to the extent service with Parent is credited for similarly situated employees of the Parent Group under the New Plans. In addition, and without limiting the generality of the foregoing, (A) each Continuing Employee shall be immediately eligible to participate, without any waiting time, in any and all New Plans to the extent coverage under such New Plan is replacing comparable coverage under an Employee Plan in which such Continuing Employee had already satisfied any such waiting period and participated immediately before the Effective Time (such plans, collectively, the "***Old Plans***"), and (B) for purposes of each New Plan providing medical, dental,

pharmaceutical or vision benefits to any Continuing Employee, Parent shall use its reasonable best efforts to (1) cause all pre-existing condition exclusions and actively-at-work requirements of such New Plan to be waived for such employee and his or her covered dependents, unless and to the extent the individual, immediately prior to entry in the New Plans, was subject to such conditions under the comparable Old Plans, and (2) to the extent not prohibited by the terms, or by any third party administrator, of any New Plan that is a fully insured medical, dental, pharmaceutical or vision benefit plan of Parent or any Affiliate, credit each Continuing Employee with all deductible payments, co-payments and other out-of-pocket expenses incurred by such Continuing Employee and his or her covered dependents under the medical, dental, pharmaceutical or vision benefit plans of the Company prior to the Completion during the plan year in which the Completion occurs for the purpose of determining the extent to which such Continuing Employee has satisfied the deductible, co-payments or maximum out-of-pocket requirements applicable to such Continuing Employee and his or her covered dependents for such plan year under any New Plan that is a medical, dental, pharmaceutical or vision benefit plan of Parent or its Affiliates, as if such amounts had been paid in accordance with such plan (to the extent such credit would have been given under comparable Old Plans prior to the Completion).

(d) Prior to the Effective Time, if requested by Parent in writing, the Company shall cause any United States Tax-qualified defined contribution plan (collectively, the "***Company 401(k) Plan***") to be terminated effective immediately prior to the Effective Time. In the event that Parent requests that the Company 401(k) Plan be terminated, the Company shall provide Parent with evidence that such Plan has been terminated (the form and substance of which shall be subject to review and approval by Parent) not later than the day immediately preceding the Effective Time. Upon the distribution of the assets in the accounts under the Company 401(k) Plan to the participants, Parent shall permit the Continuing Employees who are then actively employed by Parent or its Subsidiaries to make rollover contributions of "eligible rollover distributions" (within the meaning of Section 401(a)(31) of the Code), in the form of cash, from the Company 401(k) Plan to the applicable tax-qualified defined contribution plans of Parent or its Subsidiaries.

(e) Except as permitted pursuant to Section 10.1, prior to making any broad-based communications (written or oral) to the directors, officers or employees of the Company or any of its Subsidiaries pertaining to compensation or benefit matters that are affected by the transactions contemplated by this Agreement, the Company shall provide Parent with a copy of the intended communication, Parent shall have a reasonable period of time to review and comment on the communication, and the Company shall consider any such comments in good faith.

(f) Nothing contained in this Section 7.4 (whether express or implied) shall (i) create or confer any rights, remedies or claims upon any employee of the Company or any of its Affiliates or any right of employment or engagement or continued employment or engagement or any particular term or condition of employment or engagement for any Company Employee or any other Person, (ii) be considered or deemed to establish, amend, or modify any Employee Plan or any other benefit or compensation plan, program, policy, agreement, arrangement, or Contract, (iii) prohibit or limit the ability of Parent or any of its Affiliates to amend, modify or terminate any benefit or compensation plan, program, policy, agreement, arrangement, or contract at any time assumed, established, sponsored or maintained by any of them or (iv) confer any rights or benefits (including any third-party beneficiary rights) on any Person other than the Parties.

**7.5 Employee Share Purchase Plan**. As promptly as reasonably practicable following the date of this Agreement, the Company shall take all actions necessary or required under the Company ESPP and applicable Laws to (i) limit participation in the Company ESPP to those employees who participated in the Company ESPP immediately prior to the execution and delivery of this Agreement, (ii) prevent participants from increasing their payroll deductions or purchase elections from those in effect immediately prior to the execution and delivery of this Agreement, (iii) ensure that, except for any offering period in existence under the Company ESPP on the date of this Agreement, no offering period shall be authorized or commenced on or after the date of this Agreement, and no existing offering period shall be extended, and (iv) if the Completion shall occur prior to the end of any offering period in existence under the Company ESPP on the date of this Agreement, cause the rights of participants in the Company ESPP with respect to any such offering period (and purchase period thereunder) then underway under the Company ESPP to be determined by treating the last Business Day prior to the Effective Time as the last day of such offering period and purchase period. The Company shall terminate the Company ESPP in its entirety effective as of the Effective Time, contingent upon the Effective Time. Prior to the Effective Time, the Company shall take all actions (including, if appropriate, amending the terms of the Company ESPP) that are necessary to give effect to the transactions contemplated by this Section 7.5.

**7.6 Financing**.

(a) From and after the date hereof until the earlier of the Completion and the termination of this Agreement pursuant to and in accordance with Section 9, in a timely manner so as not to delay the Completion, the Parent Parties shall use their reasonable best efforts to (i) take, or cause to be taken, all appropriate action, and to do, or cause to be done, all things necessary, proper or advisable to consummate, no later than the date the Completion is required to occur pursuant to this Agreement, the Financing on the terms set forth in the Debt Agreement and (ii) satisfy or cause to be satisfied (or waived) on a timely basis all conditions to funding described in the Debt Agreement.

(b) In the event any portion of the Financing contemplated by the Debt Agreement becomes unavailable regardless of the reason therefor (as determined by Parent in its reasonable discretion after consulting with the Financing Sources), (i) Parent shall promptly notify the Company in writing of such unavailability and the reason therefor and (ii) Parent shall use its reasonable best efforts, and shall cause each of its Subsidiaries to use their reasonable best efforts, to obtain as promptly as practicable following the occurrence of such event, alternative debt financing for any such portion from alternative sources (the "***Alternative Financing***") in an amount sufficient, when taken together with cash of Parent and its Subsidiaries (but not including the Company and its Subsidiaries) and the other sources of funds immediately available to Parent at the Completion to pay the Financing Amounts and that do not include any conditions to the consummation of such alternative debt financing that are more onerous than the conditions set forth in the Debt Agreement. In addition to the foregoing, the Parent may also obtain Alternative Financing at its sole discretion which replaces the Financing, so long as the Parent is able to give the representations set forth in Section 6.2(h) with respect to such Alternative Financing as at the date such Alternative Financing becomes effective (with references to "date hereof," the "Financing," "Financing Sources" and "Debt Agreement" (and other like terms) in that section deemed to have been replaced with references to the date such Alternative Financing, the commitments thereunder and the agreements with respect thereto becomes effective).

(c) To the extent requested in writing by the Company from time to time, the Parent Parties shall provide the Company with updates on a reasonably current basis on the status of the Financing. The Parent Parties shall, (i) to the extent not publicly filed, provide copies of all executed credit agreements and indentures and any amendments, modifications, replacements or waivers relating to the Financing or any Indebtedness that is a takeout to the Financing (or notice that such documents have been publicly filed) within one Business Day of execution thereof and (ii) provide prompt written notice (and in any event, within two Business Days) of (A) the receipt of any written notice or other written communication from any Financing Source with respect to such Financing Source's failure or anticipated failure to fund its commitments under any definitive agreements relating to the Financing, (B) any material breach or material default by any party to such definitive agreements of which any Parent Party obtains knowledge, (C) any actual or, to the knowledge of any Parent Party, threatened in writing, withdrawal, repudiation, or termination of any of such definitive agreements or (D) receipt of written notice or other written communication from any Financing Source relating to a material dispute or disagreement with respect to the obligation to fund all or any portion of the Financing at Completion (but excluding, for the avoidance of doubt, any ordinary course negotiations with respect to the terms of the Financing or the Debt Agreement); *provided* that in no event will the Parent Parties be under any obligation to disclose any information that is subject to attorney-client or similar privilege (*provided* that the Parent Parties shall use their respective reasonable best efforts to cause any such information to be disclosed in a manner that would not result in the loss of any such privilege).

(d) Notwithstanding anything contained in this Agreement to the contrary, the Parent Parties expressly acknowledge and agree that their obligations under this Agreement, including their obligations to consummate the Completion, are not conditioned in any manner upon the Parent Parties obtaining the Financing or any other financing. To the extent Parent obtains Alternative Financing pursuant to Section 7.6(b) or amends, replaces, supplements, modifies or waives any of the Financing, references to the "Financing," "Financing Sources" and "Debt Agreement" (and other like terms in this Agreement) shall be deemed to refer to such Alternative Financing, the commitments thereunder and the agreements with respect thereto, or the Financing as so amended, replaced, supplemented, modified or waived.

**7.7 Section 16 Matters**. Prior to the Effective Time, Parent Parties and the Company shall take all such steps as may be required (to the extent permitted under applicable Laws) to cause any dispositions of the Company Shares (including derivative securities with respect to the Company Shares) resulting from the Transactions by each individual who is subject to the reporting requirements of Section 16(a) of the Exchange Act with respect to the Company, to be exempt under Rule 16b-3 promulgated under the Exchange Act.

**7.8 Financing Cooperation**.

(a) Until the earlier to occur of the Completion and the termination of this Agreement pursuant to and in accordance with Section 9, the Company shall use its reasonable best efforts, and shall cause each of its Subsidiaries to use its reasonable best efforts, and shall use its reasonable best efforts to cause its and their respective officers, employees and advisors and other Representatives, including legal and accounting advisors, to use their reasonable best efforts, to provide to Parent and its Subsidiaries such assistance as may be reasonably requested by Parent in writing that is customary in connection with the offering, arranging, obtaining, syndication, consummation, issuance or sale of the Financing, including using reasonable best efforts with respect to:

(i) participating in and assisting with the due diligence, syndication or other marketing of the Financing, including using reasonable best efforts with respect to (A) the participation by members of management of the Company with appropriate seniority in a reasonable number of meetings, presentations, road shows, drafting sessions, due diligence sessions and sessions with prospective lenders, investors and rating agencies, at times and at locations reasonably acceptable to the Company and upon reasonable notice, (B) assisting with Parent's preparation of customary materials for registration statements, offering documents, private placement memoranda, bank information memoranda, prospectuses, rating agency presentations, syndication documents and other syndication materials, including information memoranda, lender and investor presentations, bank books and other marketing documents and similar documents required in connection with any portion of the Financing (collectively, "***Marketing Material***") and due diligence sessions related thereto, (C) delivering and consenting to the inclusion or incorporation in any SEC filing related to the Financing of the historical audited consolidated financial statements and unaudited consolidated interim financial statements of the Company included or incorporated by reference into the Company SEC Documents (the "***Historical Financial Statements***") and (D) delivering customary authorization letters, management representation letters, confirmations, and undertakings in connection with the Marketing Material (in each case, as applicable, subject to customary confidentiality provisions and disclaimers);

(ii) timely furnishing Parent and its Financing Sources with existing historical financial and other customary information (collectively, the "***Financing Information***") with respect to the Company and its Subsidiaries as is reasonably requested by Parent or its Financing Sources and customarily required in Marketing Material for Financings of the applicable type, including all Historical Financial Statements and other customary information with respect to the Company and its Subsidiaries (A) of the type that would be required by Regulation S-X and Regulation S-K under the Securities Act if the Financing were incurred by Parent and registered on Form S-3 under the Securities Act, including audit reports of annual financial statements to the extent so required, or (B) reasonably necessary to permit Parent to prepare pro forma financial statements customary for Financings of the applicable type;

(iii) providing to Parent's legal counsel and its independent auditors such customary documents and other customary information relating to the Company and its Subsidiaries as may be reasonably requested in connection with their delivery of any customary negative assurance opinions and customary comfort letters relating to the Financing and use reasonable best efforts to cause the Company's independent auditors to provide customary cooperation with the respect to the Financing, including by using reasonable best efforts to cause the Company's independent auditors to provide customary comfort letters (including "negative assurance" comfort, if customary and appropriate) in connection with any capital markets transaction comprising a part of the Financing or contemplated as part of any refinancing of the Financing, including at the time of pricing and closing, to the applicable Financing Sources, and by providing customary representation letters to the extent required by such independent auditor in connection with the foregoing;

(iv) obtaining the consents of the Company's independent auditors to use their audit reports on the audited Historical Financial Statements of the Company and to references to such independent auditors as experts in any Marketing Material and registration statements and related government filings filed or used in connection with the Financing;

(v) obtaining the Company's independent auditors' customary assistance with the accounting due diligence activities of the Financing Sources, including by participating in a reasonable number of diligence sessions;

(vi) provide customary authorization letters authorizing the distribution of information related to the Company and its Subsidiaries to prospective lenders in connection with a syndicated bank financing;

(vii) assist the Parent Parties in obtaining or updating the Parent Parties' corporate and facility credit ratings;

(viii) assist the Parent Parties in the negotiation of and co-operate with the Parent Parties' preparation of any credit agreement, indenture, note, purchase agreement, underwriting agreement, and such other customary closing certificates and schedules as may be reasonably requested by Parent, in each case as contemplated in connection with the Financing;

(ix) cooperate with internal and external counsel of Parent in connection with providing customary back-up certificates and factual information regarding any legal opinion that such counsel may be required to deliver in connection with the Financing;

(x) providing documents reasonably requested by Parent or the Financing Sources relating to the repayment or refinancing of any Indebtedness for borrowed money of the Company or any of its Subsidiaries to be repaid or refinanced on the Completion Date and the release of related liens or guarantees (if any) effected thereby, including customary payoff letters and (to the extent required) evidence that notice of any such repayment has been timely delivered to the holders of such Indebtedness, in each case in accordance with the terms of the definitive documents governing such Indebtedness (*provided* that any such notice or payoff letter shall be expressly conditioned on the Completion);

(xi) procuring consents to the reasonable use of all of the Company's and its Subsidiaries' logos in connection with the Financing (*provided* that such logos are used solely in a manner that is not intended to and is not reasonably likely to harm or disparage the Company or its Subsidiaries or the reputation or goodwill of the Company or any of its Subsidiaries); and

(xii) providing at least three Business Days in advance of the Completion Date such documentation and other information about the Company and its Subsidiaries as is reasonably requested in writing by Parent at least 10 Business Days in advance of the Completion Date in connection with the Financing that relates to applicable "know your customer" and anti-money laundering rules and regulations, including without limitation, the USA PATRIOT ACT,

and, to the extent required by any Financing Source, a beneficial ownership certificate (substantially similar in form and substance to the form of Certification Regarding Beneficial Owners of Legal Entity Customers published jointly, in May 2018, by the Loan Syndications and Trading Association and Securities Industry and Financial Markets Association) in respect of any of the Company or any of its Subsidiaries that qualifies as a "legal entity customer" under the Beneficial Ownership Regulation (31 C.F.R. § 1010.230).

In addition, in connection with any marketing efforts of the Parent Parties' Financing, the Parent may reasonably request the Company to file a Current Report on Form 8-K pursuant to the Exchange Act that contains material non-public information with respect to any member of the Company Group, which Parent, in consultation with the Financing Sources and upon the advice of outside counsel, reasonably determines is necessary to include in a registration statement, customary offering memorandum or other offering document for the Financing (each an "***Offering Document***") in order to (i) correct any untrue statement of a material fact or an omission of a material fact necessary in order to make the statements therein not misleading or (ii) to cause such Offering Document to comply with the requirements of the Securities Act. The Company shall consider such request promptly, and if the Company approves of such request (such approval not be unreasonably withheld), then the Company shall promptly file such Current Report on Form 8-K in a form reasonably satisfactory to the Company. Notwithstanding anything to the contrary in this Section 7.8, the Company shall not be obligated to effect any such filing of a Current Report on Form 8-K pursuant to this this Section 7.8 if in the good faith judgment of the Company Board it would be detrimental to the Company and its shareholders for such Current Report on Form 8-K to be filed at such time or in the near future, in which case the Company shall not be obligated to file such Current Report on Form 8-K.

Notwithstanding anything to the contrary herein, (A) no member of the Company Group shall be required to take or to permit the taking of any action pursuant to this Section 7.8 to (i) pay any commitment or other fee or incur any liability (other than third-party costs and expenses that are to be promptly reimbursed by Parent upon request by the Company pursuant to Section 7.8(c)), (ii) execute or deliver any definitive financing documents or any other agreement, certificate, document or instrument, or agree to any change to or modification of any existing agreement, certificate, document or instrument, in each case that would be effective prior to the Completion Date or would be effective if the Completion does not occur (except (x) to the extent required by Section 7.8(b), applicable Company Supplemental Indentures, (y) customary officers' certificates relating to the execution thereof that would not conflict with applicable Law and would be accurate in light of the facts and circumstances at the time delivered and (z) the authorization letter and management representation letters delivered pursuant to clause (i)(D) above), (iii) provide access to or disclose information that the Company or any of its Subsidiaries reasonably determines would result in a loss of any attorney-client privilege of the Company or any of its Subsidiaries (*provided* that the Company shall, and shall cause its Subsidiaries to, use their respective reasonable best efforts to cause any such information to be disclosed in a manner that would not result in the loss of any such privilege), (iv) deliver or cause its Representatives to deliver any legal opinions, (v) be an issuer or other obligor with respect to the Financing prior to the Completion, (vi) commence any Company Note Offers and Consent Solicitations that are not conditional on Completion occurring or (vii) prepare any financial statements information (other than the Financing Information) that are not available to it and prepared in the ordinary course of its financial reporting practice, (B) none of the Company Board, officers of the Company, or directors and officers of the

Subsidiaries of the Company shall be required to adopt resolutions or consents approving the agreements, documents or instruments pursuant to which the Financing is obtained or the Company Note Offers and Consent Solicitations is consummated, and (C) neither the Company nor any of its Subsidiaries shall be required to take or permit the taking of any action that would (i) interfere unreasonably with the business or operations of the Company or its Subsidiaries, (ii) cause any representation or warranty in this Agreement to be breached by the Company or any of its Subsidiaries (unless waived by Parent), (iii) cause any director, officer or employee or shareholder of the Company or any of its Subsidiaries to incur any personal liability or (iv) result in a material violation or breach of, or a default under, any material Contract to which the Company or any of its Subsidiaries is a party, the Organizational Documents of the Company or its Subsidiaries or any material applicable Law. Parent shall cause all non-public or other confidential information provided by or on behalf of the Company or any of its Subsidiaries or Representatives pursuant to this Section 7.8 to be kept confidential in accordance with the Confidentiality Agreement; *provided* that the Company acknowledges and agrees that the confidentiality undertakings that will be obtained in connection with syndication of the Financing will be in a form customary for use in the syndication of acquisition-related debt during a takeover offer period in compliance with the requirements of the Irish Takeover Panel and the Takeover Rules.

(b) **Cooperation as to Certain Indebtedness**. If requested by Parent, the Company shall use its reasonable best efforts to assist Parent or one or more of its Subsidiaries in (i) commencing any of the following (as requested by Parent): (A) one or more offers to purchase any or all of the outstanding debt issued under the Indenture for cash (the "***Offers to Purchase***"); or (B) one or more offers to exchange any or all of the outstanding debt issued under the Indenture for securities issued by Parent or any of its Affiliates (the "***Offers to Exchange***"); and (ii) soliciting the consent of the holders of debt issued under the Indenture regarding certain proposed amendments to the Indenture (the "***Consent Solicitations***" and, together with the Offers to Purchase and Offers to Exchange, if any, the "***Company Note Offers and Consent Solicitations***"); *provided* that the closing (or effectiveness) of any such transaction shall not be consummated until the Completion and any such transaction shall be funded using consideration provided by Parent. Company Note Offers and Consent Solicitations shall be made on such terms and conditions (including price to be paid and conditionality) as are proposed by Parent and which are permitted by the terms of the Indenture and applicable Laws, including SEC rules and regulations. Parent shall consult with the Company regarding the material terms and conditions of any Company Note Offers and Consent Solicitations, including the timing and commencement of any Company Note Offers and Consent Solicitations and any tender deadlines. Parent shall have provided the Company with the necessary offer to purchase, offer to exchange, consent solicitation statement, letter of transmittal, press release, if any, in connection therewith, and each other document relevant to the transaction that will be distributed by Parent in the applicable Company Note Offers and Consent Solicitations (collectively, the "***Debt Offer Documents***") a reasonable period of time in advance of commencing the applicable the Company Note Offers and Consent Solicitations to allow the Company and its counsel to review and comment on such Debt Offer Documents, and Parent shall give reasonable and good faith consideration to any comments made or input provided by the Company and its legal counsel. Subject to the receipt of the requisite holder consents, in connection with any or all of the Consent Solicitations, the Company shall execute a supplemental indenture to the Indenture in accordance with the terms thereof amending the terms and provisions of the Indenture as described in the applicable Debt Offer Documents in a form as reasonably requested by Parent (the "***Company Supplemental Indenture***"); *provided* that the amendments

effected by such supplemental indenture shall not become operative until the Completion. Subject to the second paragraph of Section 7.8(a) above, until the earlier of the Completion and the termination of this Agreement pursuant to and in accordance with Section 9, the Company shall use its reasonable best efforts, and shall cause each of its Subsidiaries to use its reasonable best efforts, and shall use its reasonable best efforts to cause its and their respective Representatives to use their reasonable best efforts, to provide all reasonable and customary cooperation as may be reasonably requested by Parent in writing to assist Parent in connection with any Company Note Offers and Consent Solicitations (including upon Parent's written request, using reasonable best efforts to cause the Company's independent accountants to provide customary consents for use of their reports to the extent required in connection with any Company Note Offers and Consent Solicitations). The dealer manager, solicitation agent, information agent, depositary or other agent retained in connection with any Company Note Offers and Consent Solicitations will be selected and retained by Parent, and their fees and out-of-pocket expenses will be paid directly by Parent. If, at any time prior to the completion of the Company Note Offers and Consent Solicitations, the Company or any of its Subsidiaries, on the one hand, or Parent or any of its Subsidiaries, on the other hand, discovers any information that should be set forth in an amendment or supplement to the Debt Offer Documents, so that the Debt Offer Documents shall not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in light of circumstances under which they are made, not misleading, such party that discovers such information shall use reasonable best efforts to promptly notify the other Party, and an appropriate amendment or supplement prepared by Parent describing such information shall be disseminated to the holders of the applicable notes, debentures or other debt securities of the Company or its Subsidiaries outstanding under the Indenture. The consummation of any or all of the Company Note Offers and Consent Solicitations shall not be a condition to Completion.

(c) Parent shall, promptly upon request by the Company, reimburse the Company for all reasonable and documented third-party out-of-pocket costs and expenses (including attorneys' fees) incurred by the Company or its Subsidiaries in connection with the cooperation, and shall indemnify and hold harmless the Company, its Subsidiaries and their respective Representatives from and against any and all liabilities, losses, damages, claims, expenses (including attorneys' fees), interest, judgments and penalties suffered or incurred by them, in connection with this Section 7.8 (other than to the extent resulting from (x) information provided by the Company or its Subsidiaries in writing in accordance with the terms hereof to the extent such information, as provided, is inaccurate or misleading or (y) the Company's or its Subsidiaries' or Representatives' willful misconduct or gross negligence, as determined by a final non-appealable judgment of a court of competent jurisdiction), in each case whether or not the Completion is consummated or this Agreement is terminated.

**7.9 Treatment of Certain Existing Indebtedness**.

(a) The Company shall, not later than 11:00 a.m. New York City time three Business Days prior to the expected Completion Date and otherwise accordance with the terms of the Company Credit Agreement and on a date determined by the Company in consultation with Parent, execute and deliver to the Administrative Agent (as defined in the Company Credit Agreement) the requisite prepayment notices to repay, in full, all loans outstanding under the Company Credit Agreement, contingent upon consummation of the Acquisition. The Company

shall prepare such prepayment notice in accordance with the terms of the Company Credit Agreement. The Company will deliver a copy of such notice to Parent promptly after giving such notices to the Administrative Agent. The Company and its Subsidiaries shall use its reasonable best efforts to cooperate with any back-stop, "roll-over" or termination of any existing letters of credit under the Company Credit Agreement or otherwise, shall take all actions reasonably requested by Parent to cause the release and discharge of all related Liens and security interests under the Company Credit Agreement, and shall take such other actions as Parent may reasonably request in connection with such repayment, redemption or prepayment (including providing to Parent at least three Business Days prior to Completion a draft payoff letter or other similar evidence of termination or discharge in respect of the Company Credit Agreement or any other applicable Company Indebtedness in form and substance customary for transactions of this type in substantially final form, taking into account any final per diem and out of pocket expense calculations that are to be finalized once the Completion Date is determined). The Company shall deliver to Parent executed payoff letters on the Completion Date.

(b) Prior to the expected Completion Date, the Company shall use reasonable best efforts to cooperate with Parent, if Parent shall so request, to effect a redemption of the Company Notes in accordance with their terms (the "***Redemption***"); *provided* that the consummation of any such Redemption shall be conditional upon the Completion. Such cooperation by the Company shall include: (i) delivery of a notice of redemption, in form reasonably satisfactory to Parent, to the trustee with respect to the Company Notes, which such notice shall direct such trustee to deliver the notice of conditional redemption to the applicable holders with respect to the Company Notes, in each case, in accordance with the Indenture, (ii) concurrently with the deposit by Parent with the paying agent under the Company Notes of an amount sufficient to satisfy and discharge the Company Notes, delivery of a notice of satisfaction and discharge, in form reasonably satisfactory to Parent, to the trustee with respect to the Company Notes, and (iii) use of its best efforts to take all other actions necessary to facilitate the Redemption, other than depositing with the applicable paying agent under the applicable Indenture the amounts sufficient to pay off, redeem, satisfy, discharge and/or defease the Company Notes.

**7.10 Transaction Litigation**. Subject to the last sentence of this Section 7.10, the Company shall promptly notify Parent of any stockholder Legal Proceedings (including derivative claims) commenced against it, its Subsidiaries or its or its Subsidiaries' respective directors or officers relating to this Agreement or any of the Transactions (collectively, "***Transaction Litigation***") and shall keep Parent informed regarding any Transaction Litigation. The Company shall reasonably cooperate with Parent in the defense or settlement of any Transaction Litigation, and shall give Parent the opportunity to consult with it regarding the defense and settlement of such Transaction Litigation and shall consider in good faith Parent's advice with respect to such Transaction Litigation, and the Company shall give Parent the opportunity to participate in (but not control), at Parent's expense, the defense and settlement of such Transaction Litigation. Prior to the Effective Time, neither the Company nor any of its Subsidiaries shall settle or offer to settle any Transaction Litigation without the prior written consent of Parent (which consent shall not be unreasonably withheld, conditioned or delayed). Notwithstanding anything to the contrary in this Section 7.10, in the event of any conflict with any other covenant or agreement contained in Section 7.2 that expressly addresses the subject matter of this Section 7.10, Section 7.2 shall govern and control.

**7.11 State Takeover Statutes**. Each of Parent and the Company shall (a) take all action necessary so that no "moratorium," "control share acquisition," "fair price," "supermajority," "affiliate transaction" or "business combination" statute or regulation or other similar state anti-takeover Law, or any similar provision of the Organizational Documents of the Company or the Organizational Documents of Parent, as applicable, is or becomes applicable to the Scheme, the Acquisition or any of the other Transactions, and (b) if any such Law or provision is or becomes applicable to the Scheme, the Acquisition or any other Transactions, cooperate and grant such approvals and take such actions as are reasonably necessary so that the Transactions may be consummated as promptly as practicable on the terms contemplated hereby and otherwise act to eliminate or minimize the effects of such Law on the Scheme, the Acquisition or the other Transactions.

**7.12 Acquirer Sub**. Until the Effective Time, Parent shall at all times be the direct or indirect owner of all of the outstanding shares of capital stock of Acquirer Sub. Parent shall take all action necessary to cause Acquirer Sub to perform its obligations under this Agreement and to consummate the Acquisition on the terms and subject to the conditions set out in this Agreement.

**7.13 Tax Matters**. Parent may, in its sole discretion, cause a timely and irrevocable election under Section 338(g) of the Code (and any corresponding provisions of state or local Tax law) to be made with respect to the Company and any or all of its Subsidiaries that is not a U.S. corporation.

**7.14 Stock Exchange Delisting; Deregistration**. Prior to the Completion Date, the Company shall cooperate with Parent and use its reasonable best efforts to take, or cause to be taken, all actions, and do or cause to be done all things, reasonably necessary, proper or advisable on its part under applicable Laws and rules and policies of Nasdaq to enable the delisting of the Company Shares from Nasdaq and the deregistration of the Company Shares under the Exchange Act as promptly as practicable after the Effective Time, and in any event no more than ten days after the Completion Date.

**7.15 Filing of Form S-8; Listing of Additional Shares**. Parent agrees to file no later than the Completion Date a registration statement on Form S-8 (or any successor or other appropriate form) with respect to the Parent Common Stock issuable with respect to the Parent RSUs and shall use reasonable best efforts to: (i) maintain the effectiveness of such registration statement or registration statements (and maintain the current status of the prospectus or prospectuses contained therein) for so long as the Parent RSUs assumed in accordance with this Agreement remain outstanding and (ii) take any action required to be taken by it under any applicable state securities laws in connection with the conversion of the RSU Awards into Parent RSUs. Parent shall take all action necessary to cause the Parent Common Stock to be issuable upon the vesting and settlement of the Parent RSUs, to be authorized for listing on Nasdaq.

## SECTION 8. COMPLETION OF ACQUISITION AND MERGER

**8.1 Completion**.

(a) **Completion Date**. Completion shall take place remotely at 9:00 a.m., New York City time, on a date to be selected by Parent in consultation with the Company as promptly as reasonably practicable following, but not later than the third Business Day (or such shorter period of time as remains before 5:00 p.m., New York City time, on the End Date) after, the satisfaction or, in the sole discretion of the applicable Party, waiver (where applicable) of all of the Conditions ("***Completion Date***") (other than those Conditions that by their nature are to be satisfied at the Completion Date, but subject to the satisfaction or waiver of such Conditions at the Completion Date).

(b) On or prior to Completion:

(i) the Company shall cause a meeting of the Company Board (or a duly authorized committee thereof) to be held at which resolutions are passed (conditional only on delivery of the Court Order to the Registrar of Companies occurring and effective as of the Effective Time) approving:

(A) the removal of the directors of the Company as Parent shall determine;

(B) the appointment of such persons as Parent may nominate as the directors of the Company; and

(C) the registration of the transfer to Acquirer Sub (and/or its nominee(s)) in accordance with the Scheme of the relevant Company Shares.

(ii) the Company shall deliver to Parent:

(A) a certified copy of the resolutions referred to in Section 8.1(b)(i); and

(B) letters of resignation from the directors who are removed from the Company in accordance with Section 8.1(b)(i)(A).

(c) On or substantially concurrently with the Completion and subject to and in accordance with the terms and conditions of the Scheme, the Company shall cause a copy of the Court Order to be delivered to the Companies Registration Office and shall cause a copy to be provided to Parent as soon as practicable following the Company's receipt thereof:

(i) in respect of each Company Share subject to the Scheme, subject to Section 8.2(a), Parent shall pay, or caused to be paid, in respect of each holder of Company Shares at the Scheme Record Time, the Consideration to the applicable Company Shareholder or its nominees (who are intended to be third party beneficiaries of this Section 8.1(c) and Section 8.2(a)).

**8.2 Payment of Consideration**.

(a) **Payment**. Within 14 days following the Effective Date, in respect of each Company Share subject to the Scheme, Parent shall pay, or cause to be paid, in respect of each holder of Company Shares at the Scheme Record Time, the Consideration in accordance with the terms and conditions of the Scheme.

(b) **Payroll**. As soon as reasonably practicable after the Completion (but no later than 10 Business Days after the Effective Time), Parent shall, or shall cause the Acquirer Sub or the Company to, pay through the Company's payroll the aggregate Option Consideration, RSU Cash Consideration and PSU Consideration payable with respect to Company Options or other Company Equity Awards held by current or former employees of any member of the Company Group (net of any withholding Taxes required to be deducted and withheld by applicable Laws); *provided, however*, that, notwithstanding the foregoing, with respect to any Company RSU Awards and Company PSU Awards that constitute nonqualified deferred compensation subject to Section 409A of the Code and that are not permitted to be paid at the Effective Time without triggering a Tax or penalty under Section 409A of the Code, payment shall be made at the earliest time permitted under the applicable Company Share Plan and award agreement that will not trigger a Tax or penalty under Section 409A of the Code; *provided, further*, that to the extent the holder of a Company Option, or other Company Equity Award is not, and was not at any time during the vesting period of the Company Option or other Company Equity Award, an employee of the Company or any other member of the Company Group for employment tax purposes, Parent shall pay, or cause to be paid, the Option Consideration, RSU Cash Consideration or PSU Consideration payable pursuant to Section 4.1 with respect to such Company Option or other Company Equity Award in the manner described in Section 8.2(a).

**8.3 Withholding**. Notwithstanding anything herein to the contrary, Parent, the Company and their respective Affiliates shall be entitled to deduct and withhold from any amount payable pursuant to this Agreement to any Person who was a holder of a Company Share subject to the Scheme such amounts as Parent, the Company or such Affiliate is required to deduct and withhold with respect to the making of such payment under the Code or any other provision of federal, state, local or non-U.S. Tax law. To the extent that amounts are so withheld and timely paid over to the appropriate Tax Authority, such withheld amounts shall be treated for all purposes of this Agreement as having been paid to the Person to whom such consideration would otherwise have been paid.

## SECTION 9. TERMINATION

**9.1 Termination**.

(a) This Agreement may be terminated and the Acquisition and the other Transactions may be abandoned at any time prior to the Effective Time, notwithstanding receipt of the Company Shareholder Approval (except in the case of Section 9.1(a)(iii)(B)):

(i) by either the Company or Parent:

(A) if the Acquisition is implemented by way of the Scheme, Scheme Meeting or the EGM shall have been completed and the Scheme Meeting Resolution or the Required EGM Resolutions, as applicable, shall not have been approved by the requisite majorities (an "***Non Approval Termination***"); or

(B) if the Effective Time shall not have occurred by 5:00 p.m., New York City time, on the End Date, *provided* that the right to terminate this Agreement pursuant to this Section 9.1(a)(i)(B) shall not be available to a Party whose breach of any provision of this Agreement shall have been the primary cause of the failure of the Effective Time to have occurred by such time (an "***End Date Termination***"); or

(C) if the Acquisition is implemented by way of the Scheme, the Irish High Court shall decline or refuse to sanction the Scheme, unless both Parties agree in writing that the decision of the Irish High Court shall be appealed (it being agreed that the Company shall make such an appeal if requested to do so in writing by Parent and the counsel appointed by Parent and by the Company agree that doing so is a reasonable course of action); or

(D) if there shall be in effect any Law or final and non-appealable Order (other than under any Antitrust Laws or Foreign Investment Laws of any jurisdiction that is not (A) a Required Non-U.S. Jurisdiction or (B) under the HSR Act) issued, promulgated, made, rendered or entered into by any court or other tribunal of competent jurisdiction, that permanently restrains, enjoins or otherwise prohibits the consummation of the Acquisition; *provided* that the right to terminate this Agreement pursuant to this Section 9.1(a)(i)(D) shall not be available to any Party whose breach of any provision of this Agreement shall have been the primary cause of such Law, order, writ, decree, judgment, or injunction (a "***Restraining Order Termination***");

(ii) by the Company:

(A) if any Parent Party shall have breached or failed to perform in any material respect any of its covenants or other agreements contained in this Agreement or if any of its representations or warranties set out in this Agreement are inaccurate, which breach, failure to perform or inaccuracy (1) would result in a failure of the Condition set forth paragraph 5.1 or paragraph 5.2 and (2) is not reasonably capable of being cured by the End Date or, if curable, is not cured by the earlier of (x) the End Date and (y) 45 days following written notice by the Company thereof (a "***Parent Breach Termination***"); or

(B) prior to obtaining the Company Shareholder Approval, if (1) in accordance with Section 5.2, the Company Board shall have authorized the Company to terminate this Agreement under this Section 9.1(a)(ii)(B) in response to a Company Superior Proposal and (2) substantially concurrently with such termination, a Company Change of Recommendation shall have occurred and a definitive agreement providing for the consummation of such Company Superior Proposal is duly executed and delivered by all parties thereto and, the Company pays Parent the Reimbursement Payments (the "***Superior Proposal Termination***");

(iii) by Parent:

(A) if the Company shall have breached or failed to perform in any material respect any of its covenants or other agreements contained in this Agreement or if any of its representations or warranties set out in this Agreement are inaccurate, which breach, failure to perform or inaccuracy (1) would result in a failure of the Condition set out in paragraph 4.2 or paragraph 4.3 and (2) is not reasonably capable of being cured by the End Date or, if curable, is not cured by the earlier of (x) the End Date and (y) 45 days following written notice by Parent thereof (a "***Company Breach Termination***"); or

(B) if, prior to the receipt of the Company Shareholder Approval, (x) a Company Change of Recommendation shall have occurred, (y) the Company Board shall fail to reaffirm the Scheme Recommendation in a statement complying with Rule 14e-2(a) under the Exchange Act with regard to a Company Alternative Proposal or in connection with such action by the close of business on the 10th Business Day after the commencement of such Company Alternative Proposal under Rule 14e-2(a) (the foregoing a "***Change of Recommendation Termination***") or (z) the Company has materially breached its obligations under Section 5.2 that cannot be cured; or

(iv) by mutual written consent of the Company and Parent.

(b) The termination of this Agreement pursuant to and in accordance with Section 9.1(a) shall not give rise to any liability of the Parties except as provided in this Section 9.1(b) and in Section 7.8(c), Section 9.1(c), Section 9.2 and Section 10 of this Agreement shall survive, and continue in full force and effect, notwithstanding its termination.

(c) Subject to the proviso in this Section 9.1(c), upon the termination of this Agreement pursuant to and in accordance with this Section 9, no Party (or any partner, member, manager, stockholder, director, officer, employee, Affiliate, agent or other representative of such Party) shall have any liability in connection with this Agreement or the Transaction, other than the obligation of the Company (if applicable) to reimburse Parent for the Reimbursement Amount, subject to the Cap and the obligation of Parent (if applicable) to pay the Company (or an entity designated by the Company) the Reverse Termination Payment; *provided*, *however*, that nothing herein shall release any Party from liability (including any monetary damages or other appropriate remedy) for Willful Breach.

**9.2 Certain Effects of Termination**.

(a) In the event of a Parent Payment Event, the Company shall reimburse Parent for the Reimbursement Amount, subject to the Cap (the "***Reimbursement Payment***"), in immediately available funds within seven Business Days following the Company's receipt of invoices or written documentation supporting Parent's request for a Reimbursement Payment. The Reimbursement Amount will be exclusive of any VAT incurred by Parent or its Subsidiaries attributable to third party costs other than Irrecoverable VAT incurred by Parent or its Subsidiaries. In the event of a Specified Termination, then Parent shall pay to the Company (or an entity designated by the Company) $974,415,054 (the "***Reverse Termination Payment***") in immediately available funds within seven Business Days thereafter; *provided* that the Company shall not be entitled to receive the Reverse Termination Payment if the Company's breach of this Agreement shall have been the primary cause of such Specified Termination.

(b) The "***Parent Payment Events***" means where the Parties have issued the Rule 2.7 Announcement and this Agreement is terminated in accordance with Section 9.1(a):

(i) by Parent pursuant to a Change of Recommendation Termination;

(ii) by the Company pursuant to a Superior Proposal Termination; or

(iii) all of the following occur:

(A) this Agreement is terminated (x) by Parent pursuant to a Company Breach Termination as a result of a material breach or failure to perform any covenant or agreement in this Agreement described in Section 9.1(a)(iii)(A) that first occurred following the making of a Company Alternative Proposal of the type referenced in the following clause (B), (y) by Parent or the Company pursuant to a Non Approval Termination but if such termination is by the Company at such time Parent would be permitted to terminate this Agreement; and

(B) prior to the Scheme Meeting, a Company Alternative Proposal was publicly disclosed or announced and not withdrawn (or, in the case of a Company Breach Termination as a result of a material breach or failure to perform any covenant or agreement in this Agreement, was made publicly or privately to the Company Board), or any Person shall have publicly announced an intention (whether or not conditional) to make a Company Alternative Proposal that has not been withdrawn (it being understood that, for purposes of this Section 9.2(b)(iii)(B) references to "*20%*" in the definition of Company Alternative Proposal shall be deemed to refer to "*50%*"); and

(C) (x) a Company Alternative Proposal is consummated within 12 months after such termination, or (y) a definitive agreement providing for a Company Alternative Proposal is entered into within 12 months after such termination and is subsequently consummated.

(c) The "***Specified Termination***" means a valid termination of this Agreement:

(i) by Parent or the Company pursuant to an End Date Termination, if, on the date of such termination, each of the Conditions has been satisfied or, to the extent permitted by applicable Laws, waived, (other than (X) paragraphs 3.1, 3.2 or 3.3 of the Conditions (only as a result of an Order or injunction under (1) the HSR Act or (2) any other Antitrust Law or Foreign Investment Laws in any Required Non-U.S. Jurisdiction), or (Y) paragraphs 2.3 and 2.4 of the Conditions or (Z) any Condition that by its nature can only be satisfied on the Sanction Date or, in the alternative to (Y) and (Z) where the Acquisition is implemented by Takeover Offer, any other condition that by its nature can only be satisfied by no later than the latest date upon which the Takeover Offer may be declared unconditional in all respects);

(ii) by Parent or the Company pursuant to a Restraining Order Termination pursuant to or in connection with (1) the HSR Act or (2) any other Antitrust Law or Foreign Investment Laws in any Required Non-U.S. Jurisdiction; or

(iii) by the Company pursuant to a Parent Breach Termination with respect to Section 7.2 in connection with (1) the HSR Act or (2) any other Antitrust Law or Foreign Investment Laws in any Required Non-U.S. Jurisdiction.

(d) **Single Payment Only**. The Parties acknowledge and agree that in no event will Parent or the Company be required to pay, as applicable, the Reverse Termination Payment or the Reimbursement Payment on more than one occasion, whether or not the Reverse Termination Payment or the Reimbursement Payment may be payable pursuant to more than one provision of this Agreement at the same or at different times and upon the occurrence of different events.

(e) **VAT**.

(i) **VAT on the Reimbursement Payment**. Parent and the Company consider that any amounts payable under this Section 9 do not represent consideration for a taxable supply for VAT purposes and agree to use all reasonable efforts to secure that any Reimbursement Payment should not represent consideration for a taxable supply for VAT purposes (including not taking any contrary position in any Tax filing or return or in any correspondence with any Tax Authority). If and to the extent that any relevant Tax Authority determines that any Reimbursement Payment is consideration for a taxable supply and that the Company (or any member of a VAT Group of which the Company is a member) is liable to account to a Tax Authority for VAT in respect of such supply and such VAT is Irrecoverable VAT:

(A) the sum of the total amount payable by the Company by way of any Reimbursement Payment, together with any Irrecoverable VAT arising in respect of the supply for which the Reimbursement Payment is consideration ("***Company Irrecoverable VAT***"), shall not exceed the Cap and the total amount of the Reimbursement Payment shall be reduced to ensure such;

(B) to the extent that the Company has already paid amounts in respect of any Reimbursement Payment the sum of which, when combined with any Company Irrecoverable VAT, exceeds the Cap, Parent shall repay to Company, by way of a reduction in the amount of the Reimbursement Payment, an amount necessary to ensure that the sum of the total remaining Reimbursement Payment combined with any Company Irrecoverable VAT arising in connection with such does not exceed the Cap; and

(C) the Company shall (and shall procure that any applicable member of the Company Group shall) accommodate any reasonable action that Parent requests, in writing and without delay, to avoid, dispute, defend, resist, appeal or compromise any determination of a Tax Authority that any Reimbursement Payment is consideration for a taxable supply for VAT purposes and/or that Company or any member of a VAT Group of which the Company is a member is liable to account to the relevant Tax Authority for VAT in respect of such supply and/or that all or any part of such VAT is Irrecoverable VAT.

(ii) **VAT on the Reverse Termination Payment**. Parent and the Company consider that any amounts payable under this Section 9 do not represent consideration for a taxable supply for VAT purposes and agree to use all reasonable efforts to secure that any Reverse Termination Payment should not represent consideration for a taxable supply for VAT purposes (including not taking any contrary position in any Tax filing or return or in any correspondence with any Tax Authority). If and to the extent that any relevant Tax Authority determines that any Reverse Termination Payment is consideration for a taxable supply and that the Company or an entity designated by the Company (or any member of a VAT Group of which the Company or an entity designated by the Company is a member) is liable to account to a Tax Authority for VAT in respect of such supply, Parent shall pay, in addition to the Reverse Termination Payment, an amount equal to such VAT to the Company or an entity designated by the Company (or any member of a VAT Group of which the Company or an entity designated by the Company is a member) immediately upon receipt of a valid VAT invoice.

(f) **Recovered VAT**. If the Reimbursement Payment is reduced in accordance with Section 9.2(e)(i)(A) and / or (B) and the Company (or any member of a VAT Group of which the Company is a member) subsequently becomes entitled to recover all, or any part, of the Company Irrecoverable VAT amount as originally applied to the calculation in accordance with Section 9.2(e)(i)(A) and / or (B) whether by way of credit or refund from the relevant Tax Authority, the Company shall notify Parent without delay and the Reimbursement Payment shall be increased to reflect the correct amount of Company Irrecoverable VAT subject to a maximum of the original Reimbursement Payment. However, the increase of the Reimbursement Payment shall be subject to a maximum to ensure at all times that the sum of the total increased Reimbursement Payment combined with any remaining Company Irrecoverable VAT arising in connection with such does not exceed the Cap. Where there is an increase in the Reimbursement Payment in accordance with this Section 9.2(f), as soon as practicable (and, in any event, within five (5) Business Days of recovering whether by way of credit or refund any such VAT from the relevant Tax Authority), the Company (or the relevant member of a VAT Group of which the Company is a member) shall pay to Parent the appropriate amount by way of an increase in the Reimbursement Payment.

(g) **Outside the European Union**. Parent confirms that it is established outside of the European Union for VAT purposes and is a taxable person for VAT purposes within the meaning of applicable VAT Laws.

(h) **Sole and Exclusive Remedy**.

(i) If this Agreement is terminated pursuant to Section 9.1, Parent's receipt of the Reimbursement Payment and any other amount to the extent owed pursuant to Section 9.2 and Parent's right to seek specific performance pursuant to Section 10.7 will be the sole and exclusive remedies of (x) Parent and Acquirer Sub and (y) the former, current and future holders of any equity, controlling persons, directors, officers, employees, agents, attorneys, Affiliates (other than Parent or Acquirer Sub), members, managers, general or limited partners, stockholders and assignees of each of Parent and Acquirer Sub (the Persons in clauses (x) and (y) collectively, the "***Parent Related Parties***") against any of (A) the Company and its Affiliates; and (B) the former, current and future holders of any equity, controlling persons, directors, officers, employees, agents, attorneys, Affiliates, members, managers, general or limited partners, stockholders and assignees of each of the Company and its Affiliates (the Persons in clauses (A) and (B) collectively, the "***Company Related Parties***") in respect of this Agreement, the Transactions, any agreement executed in connection herewith and the transactions contemplated hereby and thereby, the termination of this Agreement, the failure to consummate the Transactions or any claims or actions under applicable Laws arising out of any breach, termination or failure. Parent's receipt (or the receipt by such other Person as Parent may designate) of the Reimbursement Payment and any other amount to the extent owed pursuant to Section 9.2 will be the only monetary damages the Parent Related Parties may recover from Company Related Parties in respect of this Agreement, any agreement executed in connection herewith and the transactions contemplated hereby and thereby, the termination of this Agreement, the failure to consummate the Transactions or any claims or actions under applicable Laws arising out of any such breach, termination or failure, and upon payment of such amount, (A) none of the Company Related Parties will have any further liability or obligation to any of the Parent Related Parties relating to or arising out of this Agreement, any agreement executed in connection herewith or the transactions

contemplated hereby and thereby or any matters forming the basis of such termination (except that the Parties (or their respective Affiliates) will remain obligated with respect to, and Parent may be entitled to remedies with respect to, the Confidentiality Agreement and Section 9.1(c), as applicable); and (B) none of Parent, Acquirer Sub or any other Person will be entitled to bring or maintain any Law against any Company Related Party arising out of this Agreement, the Transactions, any agreement executed in connection herewith or the transactions contemplated hereby and thereby or any matters forming the basis for such termination. Notwithstanding the foregoing, this Section 9.2(h)(i) will not relieve the Company from liability (I) for any Willful Breach of this Agreement or (II) for any breaches of the Confidentiality Agreement.

(ii) If this Agreement is terminated pursuant to Section 9.1, the Company's receipt of the Reverse Termination Payment and any other amount to the extent owed pursuant to Section 9.2 and the Company's right to seek specific performance pursuant to Section 10.7 will be the sole and exclusive remedies of the Company Related Parties against any of Parent Related Parties in respect of this Agreement, the Transactions, any agreement executed in connection herewith and the transactions contemplated hereby and thereby, the termination of this Agreement, the failure to consummate the Transactions or any claims or actions under applicable Laws arising out of any breach, termination or failure. The Company's receipt (or the receipt by such other Person as the Company may designate) of the Reverse Termination Payment and any other amount to the extent owed pursuant to Section 9.2 will be the only monetary damages the Company Related Parties may recover from Parent Related Parties in respect of this Agreement, any agreement executed in connection herewith and the transactions contemplated hereby and thereby, the termination of this Agreement, the failure to consummate the Transactions or any claims or actions under applicable Laws arising out of any such breach, termination or failure, and upon payment of such amount, (A) none of the Parent Related Parties will have any further liability or obligation to any of the Company Related Parties relating to or arising out of this Agreement, any agreement executed in connection herewith or the transactions contemplated hereby and thereby or any matters forming the basis of such termination (except that the Parties (or their respective Affiliates) will remain obligated with respect to, and the Company may be entitled to remedies with respect to, the Confidentiality Agreement and Section 9.1(c), as applicable); and (B) none of the Company or any other Person will be entitled to bring or maintain any Law against any Parent Related Party arising out of this Agreement, the Transactions, any agreement executed in connection herewith or the transactions contemplated hereby and thereby or any matters forming the basis for such termination. Notwithstanding the foregoing, this Section 9.2 will not relieve Parent from liability (I) for any Willful Breach of this Agreement or (II) for any breaches of the Confidentiality Agreement.

(iii) Each of the Parties acknowledges that any amount payable by the Company pursuant to this Section 9.2, including the Reimbursement Payment, does not constitute a penalty, but rather shall constitute liquidated damages in a reasonable amount that will compensate Parent Parties for the disposition of its rights under this Agreement in the circumstances in which such amounts are due and payable, which amounts would otherwise be impossible to calculate with precision.

(iv) Each of the Parties acknowledges that any amount payable by Parent pursuant to this Section 9.2, including the Reverse Termination Payment, does not constitute a penalty, but rather shall constitute liquidated damages in a reasonable amount that will compensate the Company and the entities designated by the Company for the operational impact of entering this Agreement and all related consequences on ongoing business activities in the event of a Specified Termination, which amounts would otherwise be impossible to calculate with precision.

(v) Any amount payable to the Company or its designee, or to Parent or its designee, as applicable, pursuant to this Section 9.2 shall be paid in such amounts and to such Persons as the Company or Parent, as applicable, shall designate within seven Business Days of the Specified Termination.

## SECTION 10. GENERAL

**10.1 Announcements**. Subject to the requirements of applicable Laws or the applicable rules of any securities exchange or Governmental Entity (including the Panel), the Parties shall consult with each other as to the terms of, the timing of and the manner of publication of any formal public announcement which either Party may make primarily regarding the Acquisition, the Scheme or this Agreement. Parent and the Company shall each give the other a reasonable opportunity to review and comment upon any such public announcement and shall not issue any such public announcement prior to such consultation, except as may be required by applicable Laws or the applicable rules of any securities exchange or Governmental Entity (including the Irish Takeover Panel). For clarity, the provisions of this Section 10.1 do not apply to a redemption of the Company Notes, any announcement, document or publication in connection with a Company Alternative Proposal, the Company Superior Proposal or a Company Change of Recommendation or any amendment to the terms of the Scheme proposed by Parent that would effect an increase in the Consideration whether before or after a Company Change of Recommendation. Notwithstanding the foregoing: (a) each Party may, without such consultation or consent, make any public statement in response to questions from the press, analysts, investors or those attending industry conferences, make internal announcements to any officer or other employee, or individual who is an individual independent contractor, consultant or director, of or to any of the Company Group and make disclosures in Company SEC Documents, so long as such statements are consistent in tone and substance with previous press releases, public disclosures, public statements or statements to such Persons made jointly by the Parties (or individually, if approved by the other Party); and (b) a Party may, without the prior consent of the other Party hereto but subject to giving advance notice to the other Party, issue any such press release or make any such public announcement or statement as may be required by applicable Laws.

**10.2 Notices**.

(a) Any notice or other document to be served under this Agreement may be delivered by overnight delivery service (with proof of service) or hand delivery, or sent in writing (including email transmission, the receipt of which is confirmed other than by out-of-office replies or other automatically generated responses), to the Party to be served as follows:

(i) if to Parent or Acquirer Sub, to:

Amgen Inc.
One Amgen Center Drive
Thousand Oaks, CA 91320-1799
USA
Attention: Corporate Secretary
Facsimile: (805) 499-6751

with copy to (which in and of itself shall not constitute notice):

Sullivan & Cromwell LLP
125 Broad Street
New York, NY 10004
USA
Attention: Francis J. Aquila
Email: aquilaf@sullcrom.com

and

William Fry LLP
2 Grand Canal Square
Dublin 2
Ireland
Attention: Myra Garrett
Mark Talbot
Email: myra.garrett@williamfry.com
mark.talbot@williamfry.com

(ii) if to the Company, to:

Horizon Therapeutics plc
70 St. Stephen's Green
Dublin 2
D02 E2X4, Ireland
Attn: General Counsel
Email: legal@horizontherapeutics.com

with copy to (which in and of itself shall not constitute notice):

Cooley LLP
10265 Science Center Drive
San Diego, CA 92121
USA
Attention: Barbara L. Borden
Rama Padmanabhan
Rowook Park
Email: bborden@cooley.com
rama@cooley.com
rpark@cooley.com

and

Matheson LLP
70 Sir John Rogerson's Quay
Dublin 2
Ireland
Attention: David Fitzgibbon
David Jones
Email: david.fitzgibbon@matheson.com
david.jones@matheson.com

or such other postal or email address as it may have notified to the other Party in writing in accordance with the provisions of this Section 10.2.

(b) All such notices, requests and other communications shall be deemed received on the date of receipt by the recipient thereof if received prior to 5:00 p.m. (addressee's local time) on a Business Day. Otherwise, any such notice, request or communication shall be deemed to have been received on the next succeeding Business Day.

**10.3 Assignment**. Neither Party shall assign all or any part of its rights or obligations under this Agreement without the prior written consent of the other Party; *provided* that Parent, without the Company's consent, may assign any or all of its rights and obligations hereunder, in whole or from time to time in part, to one or more of its Subsidiaries and Acquirer Sub, without the Company's consent, may assign its rights and obligations hereunder, in whole or from time to time in part, to any other wholly owned Subsidiary of Parent (*provided* that the prior consent in writing has been obtained from the Irish Takeover Panel in respect of each such assignment), but no such assignment shall relieve Parent or Acquirer Sub, as applicable, of its obligations hereunder.

**10.4 Counterparts**. This Agreement may be executed in any number of counterparts, all of which, taken together, shall constitute one and the same agreement, and each Party may enter into this Agreement by executing a counterpart and delivering it to the other Party (by hand delivery, e-mail or otherwise).

**10.5 Amendment**. No amendment of this Agreement shall be binding unless the same shall be evidenced in writing duly executed by each of the Parties, except that, following approval by the Company Shareholders, there shall be no amendment to the provisions hereof which by applicable Laws would require further approval by the Company Shareholders without such further approval nor shall there be any amendment or change not permitted under applicable Laws. Notwithstanding anything to the contrary herein, this Section 10.5, Sections 10.12(b) and 10.12(c), 10.13 and 10.14 may not be amended, supplemented, waived or otherwise modified in any manner materially adverse to the Financing Sources without the prior written consent of such Financing Sources party to any definitive agreement relating to the Financing (it being expressly agreed that the Financing Sources in their capacities as such shall be third party beneficiaries of this Section 10.5 and shall be entitled to the protections of the provisions contained in this Section 10.5 as if they were a party to this Agreement).

**10.6 Entire Agreement**. This Agreement, together with the Confidentiality Agreement, the Rule 2.7 Announcement and any documents delivered by Parent and the Company in connection herewith (including the Company Disclosure Schedule), constitutes the entire agreement and supersedes all prior agreements and understandings, both written and oral, between Parent and the Company with respect to the subject matter hereof, it being understood that the Confidentiality Agreement shall survive the execution and delivery of this Agreement.

**10.7 Inadequacy of Damages**. The Parties acknowledge and agree that irreparable harm would occur and that the Parties would not have any adequate remedy at Law (i) for any breach of any of the provisions of this Agreement or (ii) in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms. It is accordingly agreed that, except where this Agreement is terminated in accordance with Section 9.1, the Parties shall be entitled to seek an injunction or injunctions to prevent breaches or threatened breaches of this Agreement and to specifically enforce the terms and provisions of this Agreement, without proof of actual damages, and each Party further agrees to waive any requirement for the securing or posting of any bond in connection with such remedy. Subject to Section 9.1(b), the Parties further agree that (x) by seeking the remedies provided for in this Section 10.7, a Party shall not in any respect waive its right to seek any other form of relief that may be available to a Party under this Agreement and (y) nothing contained in this Section 10.7 shall require any Party to institute any proceeding for (or limit any Party's right to institute any proceeding for) specific performance under this Section 10.7 before exercising any termination right under Section 9.1 (and pursuing damages after such termination), nor shall the commencement of any action pursuant to this Section 10.7 or anything contained in this Section 10.7 restrict or limit any Party's right to terminate this Agreement in accordance with the terms of Section 9.1 or pursue any other remedies under this Agreement that may be available then or thereafter.

**10.8 Disclosure Schedule References and SEC Document References**.

(a) The Parties agree that each section or subsection of the Company Disclosure Schedule, shall be deemed to qualify the corresponding section or subsection of this Agreement, irrespective of whether or not any particular section or subsection of this Agreement specifically refers to the Company Disclosure Schedule. The Parties further agree that disclosure of any item, matter or event in any particular section or subsection of either the Company Disclosure Schedule shall be deemed disclosure with respect to any other section or subsection of the Company Disclosure Schedule, to which the relevance of such disclosure would be reasonably apparent on its face, notwithstanding the omission of a cross-reference to such other section or subsections.

(b) The Parties agree that in no event shall any cautionary, predictive or forward-looking statements contained in any part of any Company SEC Document entitled "Risk Factors," "Forward-Looking Statements," "Cautionary Statement Regarding Forward-Looking Statements," "Special Note Regarding Forward Looking Statements" or "Note Regarding Forward Looking Statements" be deemed to be an exception to (or a disclosure for purposes of or otherwise qualify) any representations and warranties of any Party contained in this Agreement.

(c) **Remedies and Waivers**. No delay or omission by either Party in exercising any right, power or remedy provided by Law or under this Agreement shall affect that right, power or remedy or operate as a waiver of it. The exercise or partial exercise of any right, power or remedy provided by Law or under this Agreement shall not preclude any other or further exercise of it or the exercise of any other right, power or remedy.

**10.9 Severability**.

(a) If any term, provision, covenant or condition of this Agreement or the Acquisition is held by a court of competent jurisdiction or other Governmental Entity to be invalid, void or unenforceable, the Parties shall negotiate in good faith to modify this Agreement or, as appropriate, the terms and conditions of this Agreement and the Acquisition, so as to effect the original intent of the Parties as closely as possible in an equitable manner in order that the Transactions may be consummated as originally contemplated to the fullest extent possible in accordance with applicable Laws.

(b) If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the Law of any jurisdiction, that shall not affect or impair (i) the legality, validity or enforceability in that jurisdiction of any other provision of this Agreement; or (ii) the legality, validity or enforceability under the Law of any other jurisdiction of that or any other provision of this Agreement.

**10.10 No Partnership and No Agency**.

(a) Nothing in this Agreement and no action taken by the Parties pursuant to this Agreement shall constitute, or be deemed to constitute, a partnership, association, joint venture or other co-operative entity between any of the Parties.

(b) Nothing in this Agreement and no action taken by the Parties pursuant to this Agreement shall constitute, or be deemed to constitute, either Party the agent of the other Party for any purpose. No Party has, pursuant to this Agreement, any authority or power to bind or to contract in the name of the other Party to this Agreement.

**10.11 Costs and Expenses**. Except as otherwise provided in this Agreement, all costs and expenses incurred in connection with this Agreement shall be paid by the Party incurring such cost or expense, except that (a) the Irish Takeover Panel's document review fees shall be borne by Parent, (b) the costs associated with the filing, printing, publication and proposing of the Rule 2.7 Announcement shall be borne by Parent, (c) the costs associated with the filing, printing, publication and proposing of the Scheme Document, Proxy Statement and any other materials required to be proposed to the Company Shareholders pursuant SEC rules, the Irish Companies Act or the Irish Takeover Rules shall be borne by the Company, (d) the filing fees incurred in connection with notifications with any Governmental Entities under any Antitrust Laws, shall be borne by Parent and (e) the cost incurred in connection with soliciting proxies in connection with the Scheme Meeting and the EGM shall be borne by the Company.

**10.12 Governing Law and Jurisdiction**.

(a) This Agreement and all Legal Proceedings based upon, arising out of or related to this Agreement or the Transactions shall be governed by, and construed in accordance with, the Laws of the State of Delaware; *provided*, *however*, that the Acquisition and the Scheme and matters related thereto (including matters related to the Takeover Rules) shall, to the extent required by the Laws of Ireland, and the interpretation of the duties of directors of the Company shall, be governed by, and construed in accordance with, the Laws of Ireland.

(b) Each of the Parties irrevocably agrees that the state and federal courts sitting in the State of Delaware, and any appellate courts therefrom, are to have exclusive jurisdiction to settle any Legal Proceeding based upon, arising out of or related to this Agreement or the Transactions and, for such purposes, irrevocably submits to the exclusive jurisdiction of such courts and waives, to the fullest extent permitted by Law, any objection which any of them may now or hereafter have to the laying of venue of, and the defense of an inconvenient forum to the maintenance of, any such Legal Proceeding in any such court. Any Legal Proceeding based upon, arising out of or related to this Agreement or the Transactions shall therefore be brought in the state and federal courts sitting in the State of Delaware, and any appellate courts therefrom. Notwithstanding the forgoing, the Scheme and matters related to the sanction thereof shall be subject to the jurisdiction of the Irish High Court and any appellate courts therefrom.

(c) Each of the Parties acknowledges and irrevocably agrees (i) that any Legal Proceeding (whether at Law, in equity, in contract, in tort or otherwise) arising out of, or in any way relating to, the Financing or the performance of services thereunder or related thereto against or by any Financing Source in its capacity as such shall be subject to the exclusive jurisdiction of any state or federal court sitting in the Borough of Manhattan, New York, New York, and any appellate court therefrom, and each Party hereto submits for itself and its property with respect to any such Legal Proceeding to the exclusive jurisdiction of such courts, (ii) not to bring or permit any of its Affiliates to bring or support anyone else in bringing any such Legal Proceeding in any other court, (iii) to waive and hereby waive, to the fullest extent permitted by Law, any objection which any of them may now or hereafter have to the laying of venue of, and the defense of an inconvenient forum to the maintenance of, any such Legal Proceeding in any such court, (iv) that a final judgment in any such Legal Proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by Law and (v) that any such Legal Proceeding shall be governed by, and construed in accordance with, the Laws of the State of New York (it being expressly agreed that the Financing Sources in their capacities as such shall be third party beneficiaries of this Section 10.12(c) and shall be entitled to enforce the provisions contained in this Section 10.12(c) as if they were a party to this Agreement).

(d) EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAWS, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY ACTION ARISING OUT OF THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, THE FINANCING, OR THE PERFORMANCE OF SERVICES THEREUNDER OR RELATED THERETO (INCLUDING ANY ACTION, PROCEEDING OR COUNTERCLAIM), INCLUDING IN ANY ACTION AGAINST OR BY ANY FINANCING SOURCE IN ITS CAPACITY AS SUCH, INCLUDING ANY ACTION DESCRIBED IN SECTION 10.12(c)(i) IN ANY SUCH COURT DESCRIBED IN SECTION 10.12(c)(i) (IT BEING EXPRESSLY AGREED THAT THE FINANCING SOURCES IN THEIR CAPACITIES AS SUCH SHALL BE THIRD PARTY BENEFICIARIES OF THIS SECTION 10.12(d) AND SHALL BE ENTITLED TO ENFORCE THE PROVISIONS CONTAINED IN THIS SECTION 10.12(d) AS IF THEY WERE A PARTY TO THIS AGREEMENT).

**10.13 Third Party Beneficiaries**. Except to the extent:

(a) as expressly provided in Section 7.3;

(b) as expressly provided in Section 7.8(b);

(c) as expressly provided in Section 8.1(c);

(d) as expressly provided in Section 10.5;

(e) as expressly provided in Section 10.12(b);

(f) as expressly provided in Section 10.12(c);

(g) as expressly provided in Section 10.12(d); and

(h) as expressly provided in Section 10.14,

this Agreement is not intended to confer upon any Person other than the Company and the Parent Parties any rights or remedies under or by reason of this Agreement.

**10.14 Waiver of Claims Against Financing Sources**. Without limiting in any respect the liabilities of the Financing Sources to Parent or its Affiliates, or the remedies of Parent or its Affiliates against the Financing Sources under any other agreement to which they are both parties, none of the Financing Sources shall have any liability to the Parties or their Affiliates relating to or arising out of this Agreement, whether at Law or equity, in contract, in tort or otherwise, and neither the Parties nor any of their Affiliates will have any rights or claims against the Financing Sources under this Agreement. Notwithstanding anything herein to the contrary, in no event shall the Company or its Affiliates be entitled to seek the remedy of specific performance of this Agreement against any of the Financing Sources (it being expressly agreed that the Financing Sources in their capacities as such shall be third party beneficiaries of this Section 10.14 and shall be entitled to enforce the provisions contained in this Section 10.14 as if they were a party to this Agreement).

**10.15 Non-Survival of Representations, Warranties, Covenants and Agreements**. The representations, warranties, covenants and agreements contained in this Agreement and in any certificate or other writing delivered pursuant hereto shall not survive the Effective Time or the termination of this Agreement pursuant to and in accordance with Section 9, except that (i) Section 7.3 and Section 8 shall survive the Effective Time, and (ii) Section 7.8(c), Sections 9.1(b)-(c), Section 9.2 and this Section 10 shall survive the termination of this Agreement pursuant to and in accordance with Section 9.

**IN WITNESS WHEREOF** the Parties have entered into this Agreement on the date specified above.

**SIGNED** for and on behalf of
**HORIZON THERAPEUTICS PLC** by its authorized signatory:

/s/ Timothy P. Walbert
Name: Timothy P. Walbert
Title: Chairman, President and Chief Executive Officer

**IN WITNESS WHEREOF** the Parties have entered into this Agreement on the date specified above.

**SIGNED** for and on behalf of
**AMGEN INC.** by its authorized signatory:

/s/ Robert A. Bradway
Name: Robert A. Bradway
Title: Chairman of the Board, Chief Executive Officer and President

**[SIGNATURE PAGE TO TRANSACTION AGREEMENT]**

**IN WITNESS WHEREOF** the Parties have entered into this Agreement on the date specified above.

**SIGNED** for and on behalf of
**PILLARTREE LIMITED** by its authorized signatory:

/s/ Peter Griffith
Name: Peter Griffith
Title: Director

**[SIGNATURE PAGE TO TRANSACTION AGREEMENT]**

**APPENDIX 3**

**CONDITIONS OF THE ACQUISITION AND THE SCHEME**

The Acquisition and the Scheme will comply with the Irish Takeover Rules and, where relevant, the rules and regulations of the U.S. Exchange Act, the Irish Companies Act and the Nasdaq, and are subject to the terms and conditions set out in this Announcement and to be set out in the Scheme Document.

The Acquisition and the Scheme are, to the extent required by the Laws of Ireland, governed by the Laws of Ireland.

The Acquisition and the Scheme will be subject to the conditions set out in this Appendix 3 (*Conditions of the Acquisition and the Scheme*).

1 The Acquisition will be conditional upon the Scheme becoming effective and unconditional by not later than the End Date (or such earlier date as may be specified by the Irish Takeover Panel, or such later date as the Amgen Parties and the Company may, subject to receiving the consent of the Irish Takeover Panel and the Irish High Court, in each case if required, agree).

2 The Scheme will be conditional upon:

2.1 the Scheme having been approved by a majority in number of the Company Shareholders (including as may be directed by the Irish High Court pursuant to Section 450(5) of the Irish Companies Act) present and voting either in person or by proxy at the Scheme Meeting (or at any adjournment or postponement of such meeting) representing, at the Voting Record Time, at least 75% in value of the Company Shares held by such Company Shareholders present and voting either in person or by proxy at the Scheme Meeting;

2.2 each of the Required EGM Resolutions having been duly passed by the requisite majority of Company Shareholders at the EGM (or at any adjournment or postponement of such meeting);

2.3 the Irish High Court having sanctioned (without material modification) the Scheme pursuant to Sections 449 to 455 of the Irish Companies Act (the date on which the condition in this paragraph 2.3 is satisfied, the "**Sanction Date**"); and

2.4 a copy of the Court Order having been delivered for registration to the Irish Registrar of Companies within 21 days of the Sanction Date.

3 The Amgen Parties and the Company have agreed that, subject to paragraph 6, the Scheme and the Acquisition will also be conditional upon the following matters having been satisfied or waived on or before the Sanction Date:

3.1 the waiting period (and any extension thereof) applicable to the Acquisition under the HSR Act shall have expired or been earlier terminated;

3.2 all applicable waiting periods having expired, lapsed or been terminated or Clearances obtained (as appropriate), in each case in connection with the Acquisition, under (a) the applicable Antitrust Laws of each of Germany and Austria and (b) the applicable Foreign Investment Laws of France, Germany, Denmark and Italy;

3.3 there shall not have been issued by any court of competent jurisdiction and remain in effect any temporary restraining order, preliminary or permanent injunction or other Order preventing the consummation of the Acquisition, nor shall any Law or Order (other than any Antitrust Laws or Foreign Investment Laws of any jurisdiction that is not (a) a Required Non-U.S. Jurisdiction or (b) under the HSR Act) promulgated, entered, enforced, enacted, issued or deemed applicable to the Acquisition by any Governmental Entity which (i) directly or indirectly prohibits the consummation of the Acquisition or (ii) imposes any Burdensome Condition; *provided however*, that Amgen and Acquirer Sub shall not be permitted to invoke this paragraph 3.3 unless they shall have otherwise taken all actions required under the Transaction Agreement to have any such Order lifted; and

3.4 the Transaction Agreement not having been terminated in accordance with its terms by the applicable Party or Parties.

4 The Amgen Parties and the Company have agreed that, subject to paragraph 6, the Amgen Parties' obligation to effect the Scheme and the Acquisition will also be conditional upon the following matters having been satisfied (or, to the extent permitted by applicable Laws, waived by the Amgen Parties) on or before the Sanction Date:

4.1 from the date of the Rule 2.7 Announcement to the Sanction Date, there having not been any event, change, effect, development or occurrence that has had, or would reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect and that is continuing;

4.2 (a) each of the representations and warranties of the Company set out in Sections 6.1(a) (*Qualification, Organization, Subsidiaries, etc.*), 6.1(b) (*Subsidiaries*), 6.1(u) (*Corporate Authority Relative to the Transaction Agreement*) and 6.1(y) (*Brokers and Other Advisors*) of the Transaction Agreement having been true and correct in all material respects at and as of the date of the Transaction Agreement and at and as of the Sanction Date as though made at and as of the Sanction Date (in each case except to extent that any such representation and warranty speaks as of a particular date, in which case such representation and warranty shall have been true and correct in all material respects as of such particular date), (b) the representations and warranties of the Company set out in Section 6.1(c) (*Capitalization*) of the Transaction Agreement having been true and correct in all respects at and as of the date of the Transaction Agreement and at and as of the Sanction Date as though made at and as of the Sanction Date except for de minimis inaccuracies, (c) the representations and warranties of the Company set out in Section 6.1(e)(i) (*Absence of Changes*) of the Transaction Agreement having been true and correct in all respects at and as of the date of the Transaction Agreement and at and as of the Sanction Date as though made at and as of the Sanction Date and (d) each of the other representations and warranties of the Company having been true and correct (without any qualification as to materiality or the Company Material Adverse Effect therein) in all respects at and as of the date of the Transaction Agreement and at and as of the Sanction Date as though made at and as of the Sanction Date (in each case except to the extent that any such representation and warranty speaks as of a particular date, in which case such representation and warranty shall have been true and correct as of such particular date), except for such failures to be true and correct as have not had and would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect;

4.3 the Company having performed and complied, in all material respects, with all of the covenants and agreements that the Transaction Agreement requires the Company to perform or comply with prior to the Sanction Date; and

4.4 Amgen having received a certificate from an executive officer of the Company confirming the satisfaction of the conditions set out in paragraphs 4.2 and 4.3.

5 The Amgen Parties and the Company have agreed that, subject to paragraph 6, the Company's obligation to effect the Scheme and the Acquisition will also be conditional upon the following matters having been satisfied (or, to the extent permitted by applicable Laws, waived by the Company) on or before the Sanction Date:

5.1 (a) each of the representations and warranties of the Amgen Parties set out in Sections 6.2(a) (*Qualification and Organization*) and 6.2(b) (*Corporate Authority Relative to the Transaction Agreement*) of the Transaction Agreement having been true and correct in all material respects at and as of the date of the Transaction Agreement and at and as of the Sanction Date as though made at and as of the Sanction Date (in each case except to the extent that any such representation and warranty speaks as of a particular date, in which case such representation and warranty shall have been true and correct in all material respects as of such particular date), and (b) each of the other representations and warranties of the Amgen Parties set out in Section 6.2 of the Transaction Agreement having been true and correct (read for purposes of this paragraph 5.1(b) without any qualification as to materiality or Amgen Material Adverse Effect therein) in all respects at and as of the date of the Transaction Agreement and at and as of the Sanction Date as though made at and as of the Sanction Date (in each case except to the extent that any such representation and warranty speaks as of a particular date, in which case such representation and warranty shall have been true and correct in all respects as of such particular date), except for such failures to be true and correct as have not had and would not reasonably be expected to have, individually or in the aggregate, an Amgen Material Adverse Effect;

5.2 the Amgen Parties having performed and complied, in all material respects, with all of the covenants and agreements that the Transaction Agreement requires either of the Amgen Parties to perform or comply with prior to the Sanction Date; and

5.3 the Company having received a certificate from an executive officer of Amgen confirming the satisfaction of the conditions set out in paragraphs 5.1 and 5.2.

6 Subject to the requirements of the Irish Takeover Panel:

6.1 the Amgen Parties, on one hand, and the Company, on the other hand, reserve the right (but in no event shall any Party be under any obligation) to waive (to the extent permitted by applicable Laws), in whole or in part, all or any of the conditions in paragraph 3 (provided that no such waiver shall be effective unless agreed to by both Parties);

6.2 Amgen reserves the right (but shall be under no obligation) to waive (to the extent permitted by applicable Laws), in whole or in part, all or any of the conditions in paragraph 4; and

6.3 the Company reserves the right (but shall be under no obligation) to waive (to the extent permitted by applicable Laws), in whole or in part, all or any of the conditions in paragraph 5.

7 The Scheme will lapse unless it is effective on or prior to the End Date (or such later date as the Amgen Parties and the Company may, subject to receiving the consent of the Irish Takeover Panel and the Irish High Court, in each case if required, agree).

8 If Amgen is required to make an offer for the Company Shares under the provisions of Rule 9 of the Irish Takeover Rules, Amgen may make such alterations to any of the Conditions set out in paragraphs 1, 2, 3, 4 and 5 above as are necessary to comply with the provisions of that rule.

9 Amgen reserves the right, subject to the prior written consent of the Irish Takeover Panel, to effect the Acquisition by way of a Takeover Offer in the circumstances described in and subject to the terms of Section 3.6 of the Transaction Agreement. Without limiting Section 3.6 of the Transaction Agreement, in the event the Acquisition is structured as a Takeover Offer, such Takeover Offer will be implemented on terms and conditions that are at least as favorable to the Company Shareholders and the Company Equity Award Holders as those which would apply in relation to the Scheme (except for an acceptance condition set at 80% of the nominal value of the Company Shares to which such an offer relates (and which are not already in the beneficial ownership of Amgen))

**BRIDGE CREDIT AGREEMENT**

**Dated as of December 12, 2022**

**among**

**Amgen Inc.,**

**The Banks Herein Named,**

**Citibank, N.A.**

**as Administrative Agent,**

**Bank of America, N.A.**

**as Syndication Agent,**

**Citibank, N.A.**

**and**

**Bank of America, N.A.**

**as Lead Arrangers and Book Runners**

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# BRIDGE CREDIT AGREEMENT

This **BRIDGE CREDIT AGREEMENT** is dated as of December 12, 2022 and is entered into by and among Amgen Inc., a Delaware corporation (the "**Borrower**"), each financial institution whose name is set forth on the signature pages hereof as a Bank, Citibank, N.A. ("**Citibank**") as the Administrative Agent, and Bank of America, N.A. ("**Bank of America**"), as Syndication Agent.

PRELIMINARY STATEMENT:

WHEREAS, the Borrower intends to consummate the Target Acquisition;

WHEREAS, in connection with the Target Acquisition, the Borrower intends to finance the Target Acquisition, the repayment of the Refinanced Existing Target Indebtedness and the payment of fees, premiums, costs and expenses (including the fees, costs and expenses payable hereunder) related to the Transactions from the following sources: (i) (x) the issuance by the Borrower or its Subsidiaries of unsecured debt securities in a public or private offering (the "**New Senior Notes**") and/or the proceeds from borrowings by the Borrower under a senior unsecured term loan facility subject to conditions precedent to funding that are no less favorable to the Borrower than the conditions set forth herein to the funding of the Bridge Facility (the "**New Term Loan Facility**" and, together with the New Senior Notes, the "**New Permanent Financing**") or (y) to the extent the New Permanent Financing is not consummated at or prior to the time the Target Acquisition is consummated, the proceeds of up to $28,500,000,000 from the borrowings hereunder and (ii) cash on hand at the Borrower (the transactions set forth in this paragraph and the preceding paragraph, together with all related transactions consummated in connection therewith, are collectively the "**Transactions**"); and

WHEREAS, the proceeds of the Advances are to be used in accordance with Section 5.8;

NOW, THEREFORE, the Banks are willing to extend such credit to the Borrower on the terms and subject to the conditions set forth herein. Accordingly, the parties hereto agree as follows:

## ARTICLE 1
## DEFINITIONS AND ACCOUNTING TERMS

1.1 **Defined Terms**. As used in this Agreement, the following terms shall have the meanings set forth below:

"**Adjusted Term SOFR**" means, for purposes of any calculation, the rate per annum equal to (a) Term SOFR for such calculation plus (b) 0.10%; provided that if Adjusted Term SOFR as so determined shall ever be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement.

"**Adjusted Term SOFR Rate Advance**" means an Advance that bears interest based on Adjusted Term SOFR. All Adjusted Term SOFR Advances shall be denominated in Dollars.

"**Administrative Agent**" means Citibank, when acting in its capacity as the administrative agent under any of the Loan Documents.

"**Administrative Agent's Office**" means the Administrative Agent's address as set forth on the signature pages of this Agreement, or such other address as the Administrative Agent hereafter may designate by written notice to the Borrower and the Banks.

"**Administrative Questionnaire**" means an Administrative Questionnaire in a form supplied by the Administrative Agent.

"**Advance**" means any Advance made or to be made by any Bank to the Borrower as provided in Article 2, and includes each Base Rate Advance and each Term Rate Advance.

"**Affiliate**" means, as to any Person, any other Person which directly or indirectly controls, or is under common control with, or is controlled by, such Person. As used in this definition, "control" (and the correlative terms, "**controlled by**" and "**under common control with**") shall mean possession, directly or indirectly, of power to direct or cause the direction of management or policies (whether through ownership of securities or partnership or other ownership interests, by contract or otherwise).

"**Agents**" means, collectively, the Administrative Agent, each Arranger and the Syndication Agent.

"**Agent Parties**" has the meaning set forth in Section 11.7(d)(ii).

"**Agreed Form of Scheme Press Announcement**" means the Scheme Press Announcement in substantially final form and in a form agreed by the Borrower and the Administrative Agent prior to the Effective Date.

"**Agreement**" means this Bridge Credit Agreement, either as originally executed or as it may from time to time be supplemented, modified, amended, restated or extended in accordance with Section 11.2.

"**Applicable Lending Office**" means, as to each Bank, its office or branch so designated by written notice to the Borrower and the Administrative Agent as its Applicable Lending Office. If no Applicable Lending Office is designated by a Bank, its Applicable Lending Office shall be its office at its address for purposes of notices hereunder.

"**Approved Fund**" means any Fund that is administered or managed by (a) a Bank, (b) an Affiliate of a Bank or (c) an entity or an Affiliate of an entity that administers or manages a Bank.

"**Arranger**" means each of Citibank and Bank of America when acting in its capacity as an arranger and a bookrunner under any of the Loan Documents.

"**Asset Sale**" means the sale or other disposition of assets by the Borrower or any Subsidiary of the Borrower outside the ordinary course of business (as determined in good faith by the Borrower), including issuances of Equity Interests by the Borrower's Subsidiaries (excluding (A) asset sales or other dispositions (including issuances of Equity Interests by the Borrower's Subsidiaries) between or among members of the Consolidated Group and their affiliates; (B) the sale or other disposition of cash and cash equivalents or debt investments and instruments; (C) the sale, exchange or other disposition of accounts receivable in connection with compromise, settlement or collection thereof consistent with past practices; (D) any license of intellectual property or a grant of rights for development, manufacture, production, commercialization, collaboration, marketing, co-promotion, or distribution consistent with past practice, (E) any sale, sale-leaseback, disposition or transfer of property primarily consisting of office space, (F) dispositions of property or assets no longer used or useful or that are obsolete (as reasonably determined by the Borrower); (G) sale-leasebacks by the Borrower and its Subsidiaries; (H) [reserved]; (I) [reserved]; (J) the sale or other disposition of assets held by joint ventures; (K) the unwinding of hedge arrangements, (L) factoring and similar arrangements, including dispositions of receivables; in the ordinary course of business; (M) any equipment financing or leasing transactions; (N) the sale or other disposition of assets in connection with receivable securitization programs; and (O) asset sales and other dispositions (including issuance of Equity Interests by the Borrower's Subsidiaries), the Net Cash Proceeds of which do not exceed $250,000,000 in any single transaction or related series of transactions or $500,000,000 in the aggregate (and only any amount in excess of such threshold amounts shall constitute Net Cash Proceeds)).

"**Assignment Agreement**" means an Assignment Agreement in substantially the form of Exhibit F, executed by a Bank and an Eligible Assignee of all or part of that Bank's interest hereunder.

"**Availability Period**" means the period from and including the Closing Date to, but excluding, the earlier of (a) the end of the Certain Funds Period and (b) the date of the termination of the Commitments.

"**Bail-In Action**" has the meaning set forth in Section 11.25.

"**Bank**" means the Persons identified as "Banks" and listed on the signature pages of this Agreement and each Eligible Assignee that shall become a party hereto pursuant to Section 11.9.

"**Bank Insolvency Event**" means that (a) a Bank or its Parent Company is insolvent, or is generally unable to pay its debts as they become due, or admits in writing its inability to pay its debts as they become due, or makes a general assignment for the benefit of its creditors, or (b) such Bank or its Parent Company is the subject of (i) a Bail-In Action or (ii) a bankruptcy, insolvency, reorganization, liquidation or similar proceeding, or a receiver, trustee, conservator, intervenor or sequestrator or the like has been appointed for such Bank or its Parent Company, or such Bank or its Parent Company has taken any action in furtherance of or indicating its consent to or acquiescence in any such proceeding or appointment.

"**Bank of America**" has the meaning set forth in the introductory paragraph.

"**Banking Day**" means any Monday, Tuesday, Wednesday, Thursday or Friday, other than a day on which banks are authorized or required to be closed in California or New York.

"**Base Rate**", for any day, means the highest of (i) the rate of interest in effect on such day as publicly announced by Citibank from time to time as its base commercial lending rate (such base rate is not intended to be the lowest rate of interest charged by Citibank) (the "Prime Rate"), (ii) the Federal Funds Effective Rate in effect on such day plus ½ of 1% and (iii) Adjusted Term SOFR for a one-month tenor in effect on such day plus 1.00%. Any change in the Base Rate due to a change in the Prime Rate, the Federal Funds Effective Rate or Adjusted Term SOFR shall be effective on the effective day of such change in the Prime Rate, the Federal Funds Effective Rate or Adjusted Term SOFR, respectively.

"**Base Rate Advance**" means an Advance made hereunder that bears interest as set forth in Section 3.1(b) and designated as a Base Rate Advance in accordance with Article 2.

"**Beneficial Ownership Certification**" means a certification regarding beneficial ownership as 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".

"**Bidco**" means "Acquirer Sub" under and as defined in the Transaction Agreement.

"**Borrower**" has the meaning set forth in the introductory paragraph.

"**Bridge Facility**" means the Commitments and any Advances made thereunder.

"**Cash**" means, when used in connection with any Person, all monetary and non-monetary items owned by that Person that are treated as cash in accordance with Generally Accepted Accounting Principles, except for amounts held by, or on deposit with, another Person as cash collateral or other security.

"**Certain Funds Default**" means an Event of Default which is continuing (and has not been either remedied or waived) arising from any of the following:

(a) Section 9.1(a) or Section 9.1(b) insofar as relating to non-payment by the Borrower of principal or fees (unless the Event of Default is due solely to an administrative or technical error);

(b) Section 9.1(d) as it relates to the failure by the Borrower to perform any of the following covenants: Sections 5.2(a) (only in respect of the Borrower and not any Subsidiary, and it being understood that failure to maintain any good standing status or similar status in any jurisdiction shall not constitute a breach of this provision), Section 6.2, Section 6.3, Section 6.5 or Section 6.7;

(c) Section 9.1(i) (but excluding, in relation to involuntary proceedings, any Event of Default caused by a frivolous or vexatious (and in either case, lacking in merit) action, proceeding or petition in respect of which no order or decree in respect of such involuntary proceeding shall have been entered); or

(d) Section 9.1(g),

in each case, for the avoidance of doubt, not with respect to the Target or any Subsidiary of the Target and excluding any procurement obligation with respect to the Target or any Subsidiary of the Target.

"**Certain Funds Period**" means the period commencing on the Effective Date and ending at the time immediately after a Mandatory Cancellation Event has occurred.

"**Certain Funds Purposes**" means:

(a) where the Target Acquisition proceeds by way of a Scheme: (i) the payment (directly or indirectly) of the cash component of the Scheme Consideration pursuant to Section 8.2(a) of the Transaction Agreement, including by depositing of funds with an exchange agent appointed for the purpose of disbursement of such cash component; (ii) the repayment of the Refinanced Existing Target Indebtedness; and (iii) the payment of fees, premiums, costs and expenses in respect of the Transactions; and

(b) where the Target Acquisition proceeds by way of a Takeover Offer: (i) payment (directly or indirectly) of the cash consideration as set forth in the Offer Documents and the Squeeze Out Notice; (ii) the repayment of the Refinanced Existing Target Indebtedness; and (iii) the payment of fees, premiums, costs and expenses in respect of the Transactions, in each case whether any such payments for such purposes are made on or after the Initial Funding Date.

"**Certain Funds Representations**" means each of the following representations: Section 4.1(a) (it being understood that failure to maintain any good standing status or similar status in any jurisdiction shall not constitute a breach of this provision), Section 4.2, Section 4.7, Section 4.9, Section 4.12, Section 4.20, Section 4.21(b)(A)(ii) and Section 4.21(b)(B)(ii), in each case, for the avoidance of doubt, not with respect to the Target or any Subsidiary of the Target and excluding any procurement obligation with respect to the Target or any Subsidiary of the Target.

"**Certificate of a Senior Officer**" means a certificate signed by a Senior Officer of the Person providing the certificate.

"**Citibank**" has the meaning set forth in the introductory paragraph.

"**Clean-up Date**" has the meaning set forth in Article 9.

"**Closing Date**" means the date on which each of the conditions set forth in Section 8.2 have been satisfied.

"**Code**" means the Internal Revenue Code of 1986, as amended or replaced and as in effect from time to time.

"**Commitment**" means, as to each Bank, such Bank's commitment to make Advances pursuant to Section 2.1(a)(i), as set forth on Schedule 2.1 or in the Assignment Agreement pursuant to which such Bank becomes a party hereto, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement. The aggregate amount of all Commitments as of the Effective Date is $28,500,000,000.

"**Communications**" has the meaning set forth in Section 11.7(d)(ii).

"**Compliance Certificate**" means a certificate in the form of Exhibit C, properly completed and signed by a Senior Officer of the Borrower.

"**Consolidated EBITDA**" means, for any period, Consolidated Net Income for such period plus, without duplication and to the extent deducted in determining Consolidated Net Income for such period, the sum of (a) interest expense, (b) provision for taxes based on income, (c) depreciation expense, (d) amortization expense, (e) unusual or non-recurring charges, expenses or losses and (f) other non-cash charges, expenses or losses (excluding any such non-cash charge to the extent it represents an accrual or reserve for potential cash charge in any future period or amortization of a prepaid cash charge that was paid in a prior period), minus, to the extent included in determining Consolidated Net Income for such period, the sum of (i) unusual or non-recurring gains and non-cash income, (ii) any other non-cash income or gains increasing Consolidated Net Income for such period (excluding any such non-cash gain to the extent it represents the reversal of an accrual or reserve for potential cash charge in any prior period) and (iii) any gains realized from the disposition of property outside of the ordinary course of business, all as determined on a consolidated basis; provided, that the Consolidated EBITDA for any entity or business acquired by the Borrower or any Subsidiary pursuant to an acquisition the aggregate consideration for which equals or exceeds $1,000,000,000 during such period shall be included on a pro forma basis for such period (as determined in good faith by the Borrower, assuming the consummation of such acquisition and the incurrence or assumption of any indebtedness by the Borrower and its Subsidiaries in connection therewith incurred as of

the first day of such period), and provided further that the Consolidated EBITDA for any entity or business sold or otherwise disposed of for aggregate consideration of $1,000,000,000 or more by the Borrower or any Subsidiary shall be deducted on a pro forma basis for such period (as determined in good faith by the Borrower, assuming the consummation of such sale or other disposition occurred on the first day of such period).

"**Consolidated Group**" means the Borrower and its Subsidiaries.

"**Consolidated Interest Coverage Ratio**" means, as of any date of determination, the ratio of (a) Consolidated EBITDA for the period of the four fiscal quarters most recently ended to (b) Consolidated Interest Expense for such period.

"**Consolidated Interest Expense**" means, for any period, total interest expense (including that attributable to leases recorded as Finance Leases in accordance with Generally Accepted Accounting Principles) of the Borrower and its Subsidiaries on a consolidated basis for such period with respect to all outstanding Indebtedness of the Borrower and its Subsidiaries.

"**Consolidated Net Income**" means, for any period, the consolidated net income (or loss) of the Borrower and its Subsidiaries on a consolidated basis; provided that there shall be excluded the income (or deficit) of any Person (other than a Subsidiary of the Borrower) in which the Borrower or any of its Subsidiaries has an ownership interest, except to the extent that any such income is actually received by the Borrower or such Subsidiary in the form of dividends or similar distributions.

"**Consolidated Net Worth**" means, as of any date of determination, the Shareholders' Equity of the Borrower and its Consolidated Subsidiaries on that date as set forth or reflected on the consolidated balance sheet of the Borrower and its Subsidiaries.

"**Consolidated Subsidiary**" means, as of any date of determination and with respect to any Person, any Subsidiary of that Person whose financial data is, in accordance with Generally Accepted Accounting Principles, reflected in that Person's consolidated financial statements.

"**Contractual Obligation**" means, as to any Person, any provision of any outstanding Securities issued by that Person or of any material agreement, instrument or undertaking to which that Person is a party or by which it or any of its Property is bound.

"**Convert**," "**Conversion**" and "**Converted**" each refers to a conversion of Advances of one Type into Advances of another Type pursuant to Section 2.5.

"**Court Order**" means "Court Order" under and as defined in the Transaction Agreement.

"**Current ERISA Affiliate**", as applied to any Person, means (i) any corporation which is a member of a controlled group of corporations within the meaning of Section 414(b) of the Code of which that Person is a member; (ii) any trade or business (whether or not incorporated) which is a member of a group of trades or businesses under common control within the meaning of Section 414(c) of the Code of which that Person is a member; and (iii) any member of an affiliated service group within the meaning of Section 414(m) or (o) of the Code of which that Person, any corporation described in clause (i) above or any trade or business described in clause (ii) above is a member.

"**Daily Margin**" means, for any date of determination, for the designated Level and Type of Advances, the following interest rates per annum:

| Type | Base Rate Advance | | | | Term Rate Advance | | | |
|---|---|---|---|---|---|---|---|---|
| Time of Determination | Initial Funding Date through 89 days after Closing Date | 90 days after Initial Funding Date through 179 days after Initial Funding Date | 180 days after Initial Funding Date through 269 days after Initial Funding Date | 270 days after Initial Funding Date and thereafter | Initial Funding Date through 89 days after Initial Funding Date | 90 days after Initial Funding Date through 179 days after Initial Funding Date | 180 days after Initial Funding Date through 269 days after Initial Funding Date | 270 days after Initial Funding Date and thereafter |
| Level 1 | 0.000% | 0.125% | 0.375% | 0.625% | 0.875% | 1.125% | 1.375% | 1.625% |
| Level 2 | 0.000% | 0.250% | 0.500% | 0.750% | 1.000% | 1.250% | 1.500% | 1.750% |
| Level 3 | 0.125% | 0.375% | 0.625% | 0.875% | 1.125% | 1.375% | 1.625% | 1.875% |
| Level 4 | 0.250% | 0.500% | 0.750% | 1.000% | 1.250% | 1.500% | 1.750% | 2.000% |
| Level 5 | 0.375% | 0.625% | 0.875% | 1.125% | 1.375% | 1.625% | 1.875% | 2.125% |

For purposes of this definition, (a) if any change in the rating established by S&P or Moody's with respect to Long-Term Debt shall result in a change in the Level, the change in the Daily Margin shall be effective as of the date on which such rating change is publicly announced, and (b) if the ratings established by both of S&P and Moody's with respect to Long-Term Debt are unavailable for any reason for any day, then the applicable level for such day shall be deemed to be Level 5 (or, if the Majority Banks consent in writing, such other Level as may be reasonably determined by the Majority Banks from a rating with respect to Long-Term Debt for such day established by another rating agency reasonably acceptable to the Majority Banks).

"**Debt Issuance**" means the borrowing, issuance or other incurrence of Indebtedness for borrowed money as described under clause (a) or (c) of the definition of Indebtedness (including loans, hybrid securities and debt securities convertible into equity), in each case, by the Borrower or any of its Subsidiaries, except (i) Indebtedness owed to the Borrower or any Subsidiary of the Borrower; (ii) borrowings under the Existing Credit Agreement and any refinancing thereof in an amount up to $3,250,000,000, (iii) any ordinary course working capital facilities, cash management, letter of credit, factoring, surety or similar bonds, hedging arrangements, cash pooling arrangements, local credit facilities or lines of credit of Foreign Subsidiaries or overdraft facilities; (iv) issuances of commercial paper and refinancings thereof (excluding any term loan indebtedness or underwritten securities offering to refinance such commercial paper); (v) purchase money indebtedness (including deferred purchase price obligations) or equipment financing in each case incurred in the ordinary course of business; (vi) indebtedness incurred in connection with leases (including sale-leasebacks), capital leases, financial leases and other similar obligations in each case incurred in the ordinary course of business; (vii) [reserved]; (viii) [reserved]; (ix) receivables securitization programs and other customary receivables financings; (x) non-recourse indebtedness (including any indebtedness for which a pledge of ownership is required) to finance projects, construction or real property; (xi) other Indebtedness to the extent the Net Cash Proceeds of such Indebtedness are utilized or to be utilized to refinance any Indebtedness for borrowed money as described under clause (a) or (c) of the definition of Indebtedness of the Borrower or any Subsidiary of the Borrower to the extent the issuance or incurrence of such Indebtedness occurs within 12 months of the maturity of the applicable Indebtedness being refinanced and pay any fees or other amounts in respect thereof (including any prepayment or redemption premiums and accrued interest thereon) and (xii) Indebtedness (other than the New Permanent Financing) in an outstanding principal amount not to exceed $750,000,000 in the aggregate

"**Debtor Relief Laws**" means the Bankruptcy Code of the United States of America, as amended from time to time, and all other applicable liquidation, conservatorship, bankruptcy, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws from time to time in effect affecting the rights of creditors generally.

"**Default**" means any Event of Default or any event that, with the giving of any applicable notice or passage of time specified in Section 9.1, or both, would be an Event of Default.

"**Default Rate**" means the interest rate described in Section 3.7.

"**Defaulting Bank**" means at any time, subject to Section 2.9(c), (i) any Bank that has failed for two or more Banking Days to comply with its obligations under this Agreement to make an Advance, or make any other payment due hereunder (each, a "**funding obligation**"), unless such Bank has notified the Administrative Agent and the Borrower in writing that such failure is the result of such Bank's determination that one or more conditions precedent to funding has not been satisfied (which conditions precedent, together with the applicable default, if any, will be specifically identified in such writing), (ii) any Bank that has notified the Administrative Agent or the Borrower in writing, or has stated publicly, that it does not intend to comply with its funding obligations hereunder, unless such writing or statement states that such position is based on such Bank's determination that one or more conditions precedent to funding cannot be satisfied (which conditions precedent, together with the applicable default, if any, will be specifically identified in such writing or public statement), (iii) any Bank that has defaulted on its funding obligations under other loan agreements or credit agreements generally under which it has commitments to extend credit or that has notified, or whose Parent Company has notified, the Administrative Agent or the Borrower in writing, or has stated publicly, that it does not intend to comply with its funding obligations under loan agreements or credit agreements generally, (iv) any Bank that has, for two or more Banking Days after written request of the Administrative Agent or the Borrower, failed to confirm in writing to the Administrative Agent and the Borrower that it will comply with its prospective funding obligations hereunder (provided that such Bank will cease to be a Defaulting Bank solely pursuant to this clause (iv) upon the Administrative Agent's and the Borrower's receipt of such written confirmation), or (v) any Bank with respect to which a Bank Insolvency Event has occurred and is continuing with respect to such Bank or its Parent Company; provided that a Bank Insolvency Event shall not be deemed to occur with respect to a Bank or its Parent Company solely as a result of the acquisition or maintenance of an ownership interest in such Bank or Parent Company by a Governmental Agency or instrumentality thereof where such action does not result in or provide such Bank 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 Bank (or such Governmental Agency or instrumentality) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Bank . Any determination by the Administrative Agent that a Bank is a Defaulting Bank under any of clauses (i) through (v) above will be conclusive and binding absent manifest error, and such Bank will be deemed to be a Defaulting Bank (subject to Section 2.9(c)) upon notification of such determination by the Administrative Agent to the Borrower and the Banks.

"**Designated Deposit Account**" means a deposit account designated by a Borrower in its Request for Loan submitted with respect to each Loan.

"**Dollars**" or "**$**" means United States Dollars.

"**Duration Fee**" means with respect to any Bank, as of any date of determination, the amount equal to (a) the Duration Percentage in effect on such date of determination, times (b) the sum of (i) the aggregate principal amount of all outstanding Advances, and (ii) the amount of the Commitment, in each case held by such Bank on such date of determination.

"**Duration Percentage**" means as of any day set forth below, the rate set forth below under the heading "Duration Percentage" opposite such day:

| Day after Initial Funding Date: | Duration Percentage: |
|---|---|
| 90th day | 0.50% |
| 180th day | 0.75% |
| 270th day | 1.00% |

"**Effective Date**" has the meaning set forth in Section 8.1.

"**EGM**" means "EGM" under and as defined in the Transaction Agreement.

"**EGM Resolutions**" means "EGM Resolutions" under and as defined in the Transaction Agreement.

"**Eligible Assignee**" means any Person that meets the requirements to be an assignee under Section 11.9(b)(iii), (v) and (vi) (subject to such consents, if any, as may be required under Section 11.9(b)(iii)).

"**Eligible Subsidiary**" means any of the wholly-owned Subsidiaries of the Borrower.

"**Employee Benefit Plan**" means any "employee benefit plan" as defined in Section 3(3) of ERISA which is, or was at any time, maintained or contributed to by the Borrower or with respect to any such plan that is subject to Section 302 of ERISA or Title IV of ERISA or Section 412 of the Code, any of its ERISA Affiliates.

"**Environmental Laws**" means all plans, policies or decrees binding on the Borrower and its Subsidiaries in accordance with applicable statutes, ordinances, orders, rules or regulations and all statutes, ordinances, orders, rules or regulations and the like, in each case, relating to (i) environmental matters, including, without limitation, those relating to fines, injunctions, penalties, damages, contribution, cost recovery compensation, losses or injuries resulting from the release or threatened release of hazardous materials, (ii) the generation, use, storage, transportation or disposal of hazardous materials, or (iii) occupational safety and health, industrial hygiene, land use or the protection of human, plant or animal health or welfare, in any manner applicable to the Borrower or any of its Subsidiaries or any of their respective properties, including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. § 9601 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. § 1801 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), the Clean Air Act (42 U.S.C. § 7401 et seq.), the Toxic Substances Control Act (15 U.S.C. § 2601 et seq.), the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. §136 et seq.), the Occupational Safety and Health Act (29 U.S.C. § 651 et seq.) and the Emergency Planning and Community Right-to-Know Act (42 U.S.C. § 11001 et seq.), each as amended or supplemented, and any analogous future or present local, state and federal statutes and regulations promulgated pursuant thereto, each as in effect as of the date of determination.

"**Equity Interests**" means shares of capital stock, partnership interests, membership interests in a limited liability company, beneficial interests in a trust or other equity ownership interests in a Person, and any warrants, options or other rights entitling the holder thereof to purchase or acquire any such equity interest.

"**Equity Issuance**" means the issuance of any Equity Interests (including equity-linked securities) by the Borrower except (a) issuances intended to be used by the Borrower as consideration for any acquisition (including any increase in the cash consideration for the Target Shares pursuant to the Scheme or in a Takeover Offer from the cash consideration set forth in the Transaction Agreement as in effect on the Effective Date), (b) issuances pursuant to, or in connection with, any employee compensation plans, equity incentive plans, employee stock plans, dividend reinvestment plans and retirement plans or issued as compensation to employees and/or non-employee directors or upon conversion or exercise of outstanding options or other equity awards, (c) issuances of directors' qualifying shares and/or other nominal amounts required to be held by Persons other than the Borrower or its Subsidiaries under applicable Law, (d) issuances among the Borrower and its affiliates, and (e) other equity issuances (including issuances of preferred stock of the Borrower) with aggregate net cash proceeds in amount up to $250,000,000.

"**ERISA**" means the Employee Retirement Income Security Act of 1974, and any regulations issued pursuant thereto, as amended or replaced and as in effect from time to time.

"**ERISA Affiliate**", as applied to any Person, means (i) any corporation which is, or was at any time, a member of a controlled group of corporations within the meaning of Section 414(b) of the Code of which that Person is, or was at any time, a member; (ii) any trade or business (whether or not incorporated) which is, or was at any time, a member of a group of trades or businesses under common control within the meaning of Section 414(c) of the Code of which that Person is, or was at any time, a member; and (iii) any member of an affiliated service group within the meaning of Section 414(m) or (o) of the Code of which that Person, any corporation described in clause (i) above or any trade or business described in clause (ii) above is, or was at any time, a member.

"**ERISA Event**" means (i) a "reportable event" within the meaning of Section 4043 of ERISA and the regulations issued thereunder with respect to any Pension Plan (excluding those for which the provision for 30-day notice to the PBGC, or the penalty for failure to provide such notice, has been waived by regulation or by PBGC technical update); (ii) the failure to meet the minimum funding standard of Sections 412 and 430 of the Code with respect to any Pension Plan (whether or not waived in accordance with Section 412(c) of the Code) or the failure to make by its due date a required installment under Section 430(j) of the Code with respect to any Pension Plan or the failure to make any required contribution to a Multiemployer Plan; (iii) the provision by the administrator of any Pension Plan pursuant to Section 4041(a)(2) of ERISA of a notice of intent to terminate such plan in a distress termination described in Section 4041(c) of ERISA; (iv) the withdrawal by the Borrower or any of its ERISA Affiliates from any Pension Plan with two or more contributing sponsors or the termination of any such Pension Plan resulting in liability therefor pursuant to Sections 4063 or 4064 of ERISA; (v) the institution by the PBGC of proceedings to terminate under Section 4042 of ERISA any Pension Plan, or the occurrence of any event or condition which might constitute grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan; (vi) the imposition of liability on the Borrower or any of its ERISA Affiliates pursuant to Section 4062(e) or 4069 of ERISA or by reason of the application of Section 4212(c) of ERISA; (vii) the withdrawal by the Borrower or any of its ERISA Affiliates in a complete or partial withdrawal (within the meaning of Sections 4203 and 4205 of ERISA) from any Multiemployer Plan if there is any potential liability therefor, or the receipt by the Borrower or any of its ERISA Affiliates of notice from any Multiemployer Plan that it is insolvent pursuant to Section 4245 of ERISA, or that it intends to terminate or has terminated under Section 4041A or 4042 of

ERISA; (viii) the imposition on the Borrower or any of its ERISA Affiliates of fines, penalties, taxes or related charges under Chapter 43 of the Code or under Section 409 or 502(c), (i) or (l) or 4071 of ERISA in respect of any Pension Plan; (ix) the assertion of a material claim (other than routine claims for benefits) against any Pension Plan or the assets thereof, or against the Borrower or any of its ERISA Affiliates in connection with any such Pension Plan; (x) receipt from the Internal Revenue Service of notice of the failure of any Pension Plan (or any other Employee Benefit Plan intended to be qualified under Section 401(a) of the Code) to qualify under Section 401(a) of the Code, or the failure of any trust forming part of any Pension Plan to qualify for exemption from taxation under Section 501(a) of the Code; or (xi) the conditions for imposition of a Lien under Section 303(k) of ERISA shall have been met with respect to any Pension Plan.

"**Erroneous Payment**" has the meaning assigned to it in Section 10.11(a).

"**Erroneous Payment Deficiency Assignment**" has the meaning assigned to it in Section 10.11(d).

"**Erroneous Payment Impacted Class**" has the meaning assigned to it in Section 10.11(d).

"**Erroneous Payment Return Deficiency**" has the meaning assigned to it in Section 10.11(d).

"**Erroneous Payment Subrogation Rights**" has the meaning assigned to it in Section 10.11(e).

"**Event of Default**" shall have the meaning provided in Section 9.1.

"**Excluded Taxes**" has the meaning set forth in Section 3.10(d).

"**Existing Credit Agreement**" means the second amended and restated credit agreement dated as of December 12, 2019, as amended or supplemented from time to time, among the Borrower, the lenders thereto, Citibank N.A., as the administrative agent and an issuing bank, and JPMorgan Chase Bank, N.A., as syndication agent.

"**FATCA**" means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code, any published intergovernmental agreement entered into in connection with the implementation of such Sections of the Code and any fiscal or regulatory legislation, rules or practices adopted pursuant to such published intergovernmental agreements.

"**Federal Funds Effective Rate**" means for any day, the rate per annum (expressed, as a decimal, rounded upwards, if necessary, to the next higher 1/100 of 1%) equal to the rate on overnight federal funds transactions with members of the Federal Reserve System, as published by the Federal Reserve Bank of New York on the Banking Day next succeeding such day; provided that (i) if such day is not a Banking Day, the Federal Funds Effective Rate for such day shall be such rate on such transactions on the next preceding Banking Day as so published on the next succeeding Banking Day, and (ii) if no such rate is so published on such next succeeding Banking Day, the Federal Funds Effective Rate for such day shall be the average rate charged to Administrative Agent, in its capacity as a Bank, on such day on such transactions as determined by the Administrative Agent; provided that if the Federal Funds Effective Rate shall be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement.

"**Fee Letter**" means that certain syndication and fee letter, dated as of the date hereof, between the Arrangers and the Borrower.

"**Finance Lease**" means, as to any Person, a lease of any Property by that Person as lessee that is, or should be recorded as a "finance lease" on the balance sheet of that Person prepared in accordance with Generally Accepted Accounting Principles.

"**Fiscal Quarter**" means the fiscal quarter of the Borrower consisting of a three month fiscal period ending on each March 31, June 30, September 30 and December 31.

"**Fiscal Year**" means the fiscal year of the Borrower consisting of a twelve month fiscal period ending on each December 31.

"**Foreign Bank**" has the meaning set forth in Section 11.27(a)(i).

"**Foreign Subsidiary**" means any Subsidiary of the Borrower that is organized under the laws of a jurisdiction other than one of the fifty states of the United States or the District of Columbia.

"**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.

"**Funding Date**" means each date on which any Advance is made hereunder, including the Initial Funding Date.

"**Generally Accepted Accounting Principles**" means generally accepted accounting principles in the United States of America. The term "**Generally Accepted Accounting Principles**" shall be read in each instance as if the words "**consistently applied**" followed immediately thereafter, meaning that the accounting principles applied are consistent in all material respects (except for changes concurred in by the Borrower's independent public accountants) to those applied at prior dates or for prior periods.

"**Governmental Agency**" means (a) any foreign, federal, state, county or municipal government, or political subdivision thereof, (b) any governmental or quasi-governmental agency, authority, board, bureau, commission, department, instrumentality or public body, (c) any court or administrative tribunal or (d) with respect to any Person, any arbitration tribunal or other nongovernmental authority to whose jurisdiction that Person has consented.

"**High Court**" means the High Court of Ireland.

"**Indebtedness**" means, as to any Person, (a) all indebtedness of such Person for borrowed money, (b) that portion of the obligations of such Person under Finance Leases which is properly recorded as a liability on a balance sheet of that Person prepared in accordance with Generally Accepted Accounting Principles, (c) to the extent of the outstanding Indebtedness thereunder, any obligation of such Person that is evidenced by a promissory note or other similar instrument representing an extension of credit to such Person, whether or not for borrowed money, (d) any obligation of such Person for the deferred purchase price of Property or services (other than trade or other accounts payable in the ordinary course of business), (e) any obligation of such Person of the nature described in clauses (a), (b), (c) or (d) above that is secured by a Lien on assets of such Person, whether or not that Person has assumed such obligation or whether or not such obligation is non-recourse to the credit of such Person, but only to the extent of the lesser of the face amount of the obligation or the fair market value of the assets so subject to the Lien, (f) obligations of such Person arising under acceptance

facilities or under facilities for the discount of accounts receivable of such Person, (g) any obligation of such Person to reimburse the issuer of any letter of credit issued for the account of such Person upon which and only to the extent a draw has been made and (h) in the case of the Borrower, the net obligations of the Borrower under Swap Agreements. Notwithstanding the provisions listed above, Indebtedness shall not include any intercompany loans made by the Borrower to a Subsidiary or by any Subsidiary to another Subsidiary or by any Subsidiary to the Borrower. As of any date of determination, the amount of the Borrower's Indebtedness with respect to (1) Swap Agreements shall be equal to the net marked-to-market value (if negative) for the Borrower for all such Swap Agreements taken as a whole and (2) obligations under clause (d) shall be the stated balance sheet amount of such obligations, determined on a consolidated basis in accordance with Generally Accepted Accounting Principles, of the Borrower and its Consolidated Subsidiaries on that date.

"**Indemnified Taxes**" has the meaning set forth in Section 3.10(d).

"**Indemnitees**" has the meaning set forth in Section 11.12.

"**Initial Funding Date**" means the date on which the first Advance is made hereunder.

"**Interest Period**" means, as to each Term Rate Advance, the period commencing on the date specified by the Borrower of such Advance pursuant to Section 2.1(b) and ending 1, 3 or 6 months thereafter, as specified by the applicable Borrower in the applicable Request for Loan; provided that:

(a) The first day of any Interest Period shall be a Banking Day;

(b) Any Interest Period that would otherwise end on a day that is not a Banking Day shall be extended to the next succeeding Banking Day unless such Banking Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Banking Day; and

(c) No Interest Period shall extend beyond the final Maturity Date.

"**Ireland**" means Ireland, excluding Northern Ireland, and the word "Irish" shall be construed accordingly.

"**Irish Companies Act**" means the Companies Act 2014 of Ireland.

"**Laws**" means, collectively, all foreign, federal, state and local statutes, treaties, rules, regulations, ordinances, codes and administrative or controlling precedents of any Governmental Agency.

"**Level**" means Level 1, Level 2, Level 3, Level 4 or Level 5, as the case may be, provided, however that if, as of any date of determination, (a) there is a one Level difference between (x) the Level that would be applicable if such Level were determined solely by reference to the rating assigned by S&P (the "**Hypothetical S&P Level**") and (y) the Level that would be applicable if such Level were determined solely by reference to the rating assigned by Moody's (the "**Hypothetical Moody's Level**") then the "Level" for such date shall be deemed to be the higher of the Hypothetical S&P Level and the Hypothetical Moody's Level and (b) there is a two Level or more difference between the Hypothetical S&P Level and the Hypothetical Moody's Level, then the "Level" for such date shall be deemed to be the middle Level between the Hypothetical S&P Level and the Hypothetical Moody's Level, and if such middle Level does not exist, then the "Level" for such date shall be deemed to be the lower of the middle two Levels between the Hypothetical S&P Level and the Hypothetical Moody's Level (for these purposes Level 1 being higher than Level 2, etc.).

"**Level 1**" means that, as of any date of determination, the Long-Term Debt carries either of the following ratings:

"A" or higher from S&P

"A2" or higher from Moody's.

"**Level 2**" means that, as of any date of determination, the criteria of Level 1 are not satisfied and the Long-Term Debt carries either of the following ratings:

"A-" from S&P

"A3" from Moody's.

"**Level 3**" means that, as of any date of determination, the criteria of neither Level 1 nor Level 2 are satisfied and the Long-Term Debt carries either of the following ratings:

"BBB+" from S&P

"Baa1" from Moody's.

"**Level 4**" means that, as of any date of determination, the criteria of none of Level 1, Level 2 or Level 3 are satisfied and the Long-Term Debt carries either of the following ratings:

"BBB" from S&P

"Baa2" from Moody's.

"**Level 5**" means that, as of any date of determination, the criteria of none of Level 1, Level 2, Level 3 or Level 4 are satisfied.

"**Lien**" means any mortgage, deed of trust, pledge, hypothecation, assignment for security, security interest, encumbrance, lien or charge of any kind, whether voluntarily incurred or arising by operation of Law or otherwise, affecting any Property, including any agreement to grant any of the foregoing, any conditional sale or other title retention agreement, any lease in the nature of a security interest, and/or the filing of or agreement to give any financing statement (other than a precautionary financing statement with respect to a lease that is not in the nature of a security interest) under the Uniform Commercial Code or comparable Law of any jurisdiction with respect to any Property.

"**Loan**" means any group of Advances made at any one time by the Banks pursuant to Article 2.

"**Loan Documents**" means, collectively, this Agreement, the Notes, the Fee Letter, and any Request for Loan, in each case either as originally executed or as the same may from time to time be supplemented, modified, amended, restated, extended or supplanted.

"**Long Stop Date**" means the earlier of (a) the first anniversary of the Effective Date and (b) the "End Date" under and as defined in the Transaction Agreement.

"**Long-Term Debt**" means senior, unsecured, long-term-debt securities of the Borrower.

"**Majority Banks**" means, as of any date of determination, Banks to which more than 50% of the aggregate Total Outstandings is owed or, if Total Outstandings at such time are zero, Banks whose aggregate Commitments are greater than 50% of the Commitments then in effect; provided that if any Bank shall be a Defaulting Bank at such time, there shall be excluded from the determination of Majority Banks at such time the Total Outstandings owed to such Defaulting Bank at such time or, if the Total Outstandings at such time are zero, the Commitments of such Bank at such time, as applicable.

"**Mandatory Cancellation Event**" means the occurrence of any of the following conditions or events:

(a) where the Target Acquisition proceeds by way of a Scheme:

(i) the Scheme Meeting or the EGM shall have been completed and the Scheme Meeting Resolution or the Required EGM Resolutions, as applicable, shall not have been approved by the requisite majorities;

(ii) the High Court shall decline or refuse to sanction the Scheme, which decision has become final and non-appealable;

(iii) either the Scheme lapses or it is withdrawn, unless the Borrower has elected to convert the Scheme to a Takeover Offer in accordance with Section 3.6 of the Transaction Agreement;

(iv) the Scheme Circular is not dispatched within 28 days of the date of the Scheme Press Announcement (or such later date as the Takeover Panel may permit);

(v) a Court Order(s) is issued but not filed with the Registrar within 21 calendar days of its issuance; or

(vi) the date which is 15 days after the Scheme Effective Date, or such later date permitted by the Takeover Panel;

(b) where the Target Acquisition proceeds by way of a Takeover Offer:

(i) such Takeover Offer lapses, terminates or is withdrawn; or

(ii) the Takeover Offer Document(s) is not dispatched within 28 days (or such longer period permitted by the Takeover Panel) of the date of issue of the Offer Press Announcement;

(c) the time at which all payments made or to be made for Certain Funds Purposes have been paid in full in cleared funds; or

(d) the Long Stop Date,

provided that, for the avoidance of doubt, a switch from a Scheme to a Takeover Offer or from a Takeover Offer to a Scheme (or, for the avoidance of doubt, any amendment to the terms or conditions of a Scheme or a Takeover Offer) shall not constitute a lapse, termination or withdrawal for the purposes of this definition.

"**Material Adverse Effect**" means a circumstance or set of circumstances or events affecting the business, financial condition or operations of the Borrower and its Subsidiaries, taken as a whole, that have a material adverse effect, individually or in the aggregate, upon the ability (i) of the Borrower and its Subsidiaries, taken as a whole, to perform under the Loan Documents or (ii) of the Banks to enforce, the Obligations under the Loan Documents.

"**Maturity Date**" means the date that is 364 days after the Initial Funding Date.

**"Moody's"** means Moody's Investors Service, Inc. or any successor thereto.

"**Multiemployer Plan**" means any employee benefit plan which is a "multiemployer plan" (as defined in Section 4001(a)(3) of ERISA) to which the Borrower or any of its ERISA Affiliates is contributing, or within the preceding six (6) years has contributed, or to which the Borrower or any of its ERISA Affiliates has, or within the preceding six (6) years has had, an obligation to contribute.

"**Net Cash Proceeds**" means:

(a) with respect to any sale or other disposition of assets by the Borrower or any Subsidiary of the Borrower outside the ordinary course of business (as determined in good faith by the Borrower), including issuance of Equity Interests by the Borrower's Subsidiaries, the excess, if any, of (i) the cash received in connection therewith (including any cash received by way of deferred payment pursuant to, or by monetization of, a note receivable or otherwise, but only as and when so received) over (ii) the sum of (A) payments made to retire any Indebtedness that is secured by such asset and that is required to be repaid in connection with the sale thereof, (B) the fees and expenses incurred by the Consolidated Group in connection therewith, (C) taxes paid or reasonably estimated to be payable by the Consolidated Group in connection with such transaction, (D) the funded escrow established pursuant to the documents governing such dispositions to secure indemnification and purchase price adjustments; provided that any amounts released from escrow shall constitute Net Cash Proceeds; (E) the amount of reserves established by the Consolidated Group in good faith and pursuant to commercially reasonable practices for adjustment in respect of the sale price of such asset or assets in accordance with GAAP; and (F) the pro rata portion of the cash received in connection therewith attributable to minority interests and not available for distribution to or for the account of the Borrower or any of its wholly-owned subsidiaries as a result thereof; provided that if the amount of such reserves exceeds the amounts charged against such reserves, then such excess, upon the determination thereof, shall then constitute Net Cash Proceeds; provided, further, that if no Event of Default exists and the Borrower shall deliver to the Administrative Agent a certificate of a Senior Officer of the Borrower to the Administrative Agent promptly following receipt of any such proceeds setting forth the Consolidated Group's intention to use any portion of such proceeds in assets useful in the business of the Consolidated Group within the Reinvestment Period, such portion of such proceeds shall not constitute Net Cash Proceeds except to the extent not, within the Reinvestment Period, so used;

(b) with respect to the borrowing, issuance or other incurrence of Indebtedness for borrowed money as described under clause (a) or (c) of Indebtedness (including loans, hybrid securities, and debt securities convertible into equity) by the Borrower or any Subsidiary of the Borrower, the excess, if any, of (i) cash received by the Consolidated Group in connection with such incurrence, issuance, offering or placement over (ii) the sum of (A) payments made to retire any Indebtedness that is required to be repaid in connection with such issuance, offering or placement (other than the Advances) and (B) the underwriting discounts and commissions and other fees and expenses incurred by the Borrower and its Subsidiaries in connection with such incurrence, issuance, offering or placement; and

(c) with respect to the issuance of any Equity Interests (including equity-linked securities) by the Borrower, the excess of (i) the cash received by the Borrower in connection with such issuance over (ii) the underwriting discounts and commissions and other fees and expenses incurred by the Consolidated Group in connection with such issuance.

"**New Permanent Financing**" has the meaning set forth in the Preliminary Statements.

"**New Senior Notes**" has the meaning set forth in the Preliminary Statements.

"**New Term Loan Facility**" has the meaning set forth in the Preliminary Statements.

"**Non-Defaulting Bank**" means, at any time, a Bank that is not a Defaulting Bank or a Potential Defaulting Bank.

"**Notes**" means any of the promissory notes made by the Borrower in favor of a Bank in accordance with Section 2.1(e) to evidence Advances made by that Bank under the Commitments, substantially in the form of Exhibit B, as originally executed or as the same may from time to time be supplemented, modified, amended, renewed or extended.

"**Notice of Conversion/Continuation**" has the meaning specified in Section 2.5(a).

"**Obligations**" means all present and future monetary obligations of every kind or nature of the Borrower at any time and from time to time owed to the Arrangers, the Administrative Agent, the Syndication Agent or the Banks or any one or more of them under any one or more of the Loan Documents, whether due or to become due, matured or unmatured, liquidated or unliquidated, or contingent or noncontingent, including obligations to pay, discharge and satisfy the Erroneous Payment Subrogation Rights and interest that accrues after the commencement of any proceeding under any Debtor Relief Law by or against the Borrower or any Subsidiary of the Borrower.

"**Offer Conversion Notice**" has the meaning set forth in Section 5.10.

"**Offer Documents**" means the Takeover Offer Document and the Offer Press Announcement.

"**Offer Press Announcement**" means the formal press announcement of the Takeover Offer required to be issued in compliance with Rule 2.7 of the Takeover Rules in relation to the Takeover Offer following service of an Offer Conversion Notice.

"**Original Currency**" has the meaning set forth in Section 1.1(a).

"**Other Connection Taxes**" means, with respect to the Administrative Agent or any Bank, Taxes imposed as a result of a present or former connection between the Administrative Agent or such Bank and the jurisdiction imposing such Tax (other than connections arising from the Administrative Agent or such Bank having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Loan Document, or sold or assigned an interest in any Loan or Loan Document).

"**Other Taxes**" has the meaning set forth in Section 3.10(d).

"**Parent Company**" means, with respect to a Bank, the bank holding company (as defined in Federal Reserve Board Regulation Y), if any, of such Bank, or if such Bank does not have a bank holding company, then any corporation, association, partnership or other business entity owning, beneficially or of record, directly or indirectly, a majority of the shares of such Bank.

"**Participant**" has the meaning set forth in Section 11.9(c).

"**Participant Register**" has the meaning set forth in Section 11.9(e).

"**Patriot Act**" has the meaning set forth in Section 11.29.

"**Payment Recipient**" has the meaning assigned to it in Section 10.11(a).

"**PBGC**" means the Pension Benefit Guaranty Corporation (or any successor thereto).

"**Pension Plan**" means any Employee Benefit Plan other than a Multiemployer Plan, that is subject to Section 412 of the Code or Section 302 of ERISA or Title IV of ERISA.

"**Permitted Encumbrances**" means:

(a) inchoate Liens incident to construction or maintenance of real property, or Liens incident to construction or maintenance of real property, now or hereafter filed of record for sums not yet delinquent or being contested in good faith, if reserves or other appropriate provisions, if any, as shall be required by Generally Accepted Accounting Principles shall have been made therefor;

(b) Liens for taxes and assessments on real property which are not yet past due, or Liens for taxes and assessments on real property for which adequate reserves have been set aside and are being contested in good faith by appropriate proceedings and have not proceeded to judgment, provided that, by reason of non-payment of the obligations secured by such Liens, no such material real property is subject to a material risk of loss or forfeiture;

(c) easements, exceptions, reservations, or other agreements granted or entered into for the purpose of pipelines, conduits, cables, wire communication lines, power lines and substations, streets, trails, walkways, drainage, irrigation, water, and sewerage purposes, dikes, canals, ditches, the removal of oil, gas, coal, or other minerals, and other like purposes affecting real property which in the aggregate do not materially burden or impair the fair market value or use of such real property for the purposes for which it is or may reasonably be expected to be held;

(d) rights reserved to or vested in any Governmental Agency by Law to control or regulate, or obligations or duties under Law to any Governmental Agency with respect to, the use of any real property;

(e) rights reserved to or vested in any Governmental Agency by Law to control or regulate, or obligations or duties under Law to any Governmental Agency with respect to, any right, power, franchise, grant, license, or permit;

(f) present or future zoning laws and ordinances or other laws and ordinances restricting the occupancy, use, or enjoyment of real property;

(g) statutory Liens, other than those described in clauses (a) or (b) above, arising in the ordinary course of business with respect to obligations which are not delinquent or are being contested in good faith, if reserves or other appropriate provisions, if any, as shall be required by Generally Accepted Accounting Principles shall have been made therefor;

(h) Liens consisting of pledges or deposits to secure obligations under workers' compensation laws or similar legislation, including Liens of judgments thereunder which are not currently dischargeable;

(i) Liens consisting of pledges or deposits of Property to secure performance in connection with operating leases made in the ordinary course of business to which the Borrower or a Subsidiary is a party as lessee, provided the aggregate value of all such pledges and deposits in connection with any such lease does not at any time exceed 16-2/3% of the annual fixed rentals payable under such lease;

(j) Liens consisting of deposits of Property to secure statutory obligations of the Borrower or a Subsidiary of the Borrower in the ordinary course of its business;

(k) Liens consisting of deposits of Property to secure (or in lieu of) surety, appeal or customs bonds in proceedings to which the Borrower or a Subsidiary of the Borrower is a party in the ordinary course of its business;

(l) purchase money Liens or purchase money security interests upon or in any property acquired or held by the Borrower or any Subsidiary in the ordinary course of business to secure the purchase price of such property or to secure indebtedness incurred solely for the purpose of financing the acquisition of such property;

(m) Liens on an asset to secure all or any part of the cost of development or construction of such asset or improvements thereon and which shall be released or satisfied within 120 days after completion of such development or construction;

(n) Liens on an asset created in connection with the acquisition, construction or development of additions, extensions or improvements to such asset which shall be financed by obligations described in Sections 142, 144(a) or 144(c) of the Code, as amended, or by obligations entitled to substantially similar tax benefits under other legislation or regulations in effect from time to time;

(o) Liens on property subject to escrow or similar arrangements established in connection with litigation settlements;

(p) Liens on an asset required in connection with any program, law, statute or regulation of any state or local authority which provides financial or tax benefits not available without such Lien, provided that substantially all of the obligations secured by such Lien are obligations that are in lieu of, or reduce, a property tax or other payment obligation that itself would have been secured by a Lien permitted hereunder;

(q) Liens on Property securing any intercompany loans made by the Borrower to a Subsidiary or by any Subsidiary to another Subsidiary; and

(r) Liens on the Target Shares (or any of them) securing any indebtedness or any obligations whatsoever.

"**Person**" means any entity, whether an individual, trustee, corporation, general partnership, limited partnership, limited liability company, joint stock company, trust, estate, unincorporated organization, business association, tribe, firm, joint venture, Governmental Agency, or otherwise.

"**Platform**" has the meaning set forth in Section 11.7(d)(i).

"**Potential Defaulting Bank**" means, at any time, (i) any Bank with respect to which an event of the kind referred to in the definition of "Bank Insolvency Event" has occurred and is continuing in respect of any financial institution affiliate of such Bank, (ii) any Bank that has notified, or whose Parent Company or a financial institution affiliate thereof has notified, the Administrative Agent or the Borrower in writing, or has stated publicly, that it does not intend to comply with its funding obligations under any other loan agreement or credit agreement or other similar/other financing agreement, unless such writing or statement states that such position is based on such Bank's determination that one or more conditions precedent to funding cannot be satisfied (which conditions precedent, together with the applicable default, if any, will be specifically identified in such writing or public statement), or (iii) any Bank that has, or whose Parent Company has, a non-investment grade rating from Moody's or S&P or another nationally recognized rating agency. Any determination by the Administrative Agent that a Bank is a Potential Defaulting Bank under any of clauses (i) through (iii) above will be conclusive and binding absent manifest error, and such Bank will be deemed a Potential Defaulting Bank (subject to Section 2.9(c)) upon notification of such determination by the Administrative Agent to the Borrower and the Banks.

"**Property**" means any interest in any kind of property or asset, whether real, personal or mixed, or tangible or intangible.

"**Qualifying Revolving Facility**" means a revolving credit facility entered into by the Borrower, all or a portion of the proceeds of which will be used for Certain Funds Purposes and the commitments (or a portion thereof) under which are subject to conditions precedent to funding that are no less favorable to the Borrower than the conditions set forth herein to the funding of the Bridge Facility, as determined by the Borrower in its reasonable discretion.

"**Qualifying Term Loan Facility**" means a term loan facility entered into by the Borrower, the proceeds of which will be used for Certain Funds Purposes and that is subject to conditions precedent to funding that are no less favorable to the Borrower than the conditions set forth herein to the funding of the Bridge Facility, as determined by the Borrower in its reasonable discretion.

"**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.

"**Reference Rate**" means (a) the Term SOFR Reference Rate, or (b) the Adjusted Term SOFR.

"**Refinanced Existing Target Indebtedness**" means (a) Indebtedness under that certain Credit Agreement, dated as of May 7, 2015, by and among Horizon Therapeutics USA, Inc., Horizon Therapeutics plc (f/k/a Horizon Pharma Public Limited Company), the subsidiary guarantors party thereto, the lenders party thereto from time to time and Citibank, N.A., as administrative agent and collateral agent, (b) Indebtedness under the 5.5% Senior Notes due 2027 issued pursuant to that certain Indenture dated as of July 16, 2019, by and among Horizon Therapeutics USA, Inc., the guarantors party thereto and U.S. Bank National Association, as trustee, and (c) any other indebtedness of the Target or any of its Subsidiaries required or desirable to be repaid on or about the Initial Funding Date, including (i) close-out or termination costs (if applicable) in connection with any derivative instruments to which the Target or any of its Subsidiaries is party, and (ii) any amounts required to cash collateralize any letters of credit or similar instruments in respect of which the Target (or any of its Subsidiaries) is the underlying account party or obligor in respect of such instrument.

"**Register**" has the meaning set forth in Section 11.9(g).

"**Registrar**" means the means the Registrar of Companies in Dublin, Ireland, as defined in Section 2 of the Irish Companies Act.

"**Regulation D**" means Regulation D, as at any time amended, of the Board of Governors of the Federal Reserve System, or any other regulation in substance substituted therefor.

"**Regulation U**" means Regulation U, as at any time amended, of the Board of Governors of the Federal Reserve System, or any other regulation in substance substituted therefor.

"**Reinvestment Period**" means, with respect to any Net Cash Proceeds received in connection with any Asset Sale, the period of 6 months following the receipt of such Net Cash Proceeds; provided that, in the event that, during such 6 month period, a member of the Consolidated Group enters into a binding commitment to reinvest any Net Cash Proceeds, the Reinvestment Period with respect to such Net Cash Proceeds shall be the period of 6 months following the receipt of such Net Cash Proceeds.

"**Related Parties**" means, with respect to any Person, such Person's Affiliates and the partners, directors, officers, employees, agents and advisors of such Person and of such Person's Affiliates.

"**Request for Loan**" means a written request for a Loan substantially in the form of Exhibit E, signed by a Senior Officer of the applicable Borrower and properly completed to provide all information required to be included therein.

"**Required EGM Resolutions**" has the meaning under and as defined in the Transaction Agreement.

"**Requirement of Law**" means, as to any Person, the articles or certificate of incorporation and by-laws or other organizational or governing documents of such Person, and any Law, or judgment, award, decree, writ or determination of a Governmental Agency, in each case applicable to or binding upon such Person or any of its Property or to which such Person or any of its Property is subject.

"**S&P**" means S&P Global Ratings, or any successor thereto.

"**Scheme**" means the "Scheme" under and as defined in the Transaction Agreement.

"**Scheme Circular**" means the "Scheme Document" under and as defined in the Transaction Agreement.

"**Scheme Consideration**" means "Consideration" under and as defined in the Transaction Agreement.

"**Scheme Documents**" means the Scheme Press Announcement and the Scheme Circular.

"**Scheme Effective Date**" means the date of delivery to the Registrar of the Court Order.

"**Scheme Meeting**" means "Scheme Meeting" under and as defined in the Transaction Agreement.

"**Scheme Meeting Resolution**" means "Scheme Meeting Resolution" under and as defined in the Transaction Agreement.

"**Scheme Press Announcement**" means the "Rule 2.7 Announcement" under and as defined in the Transaction Agreement, with respect to the Scheme.

"**Securities**" means any capital stock, share, voting trust certificate, bond, debenture, note or other evidence of indebtedness, limited partnership interest, or any warrant, option or other right to purchase or acquire any of the foregoing.

"**Senior Officer**" means the (a) chief executive officer, (b) chief operating officer, (c) chief financial officer, (d) chief accounting officer, (e) corporate controller, (f) treasurer, (g) assistant treasurer, (h) any senior vice president, or (i) any executive vice president, in each case whatever the title nomenclature may be, of the Person designated.

"**Shareholders' Equity**" means, as of any date of determination, shareholders' equity as of that date determined in accordance with Generally Accepted Accounting Principles; provided that there shall be excluded from Shareholders' Equity any amount attributable to capital stock that is, directly or indirectly, required to be redeemed or repurchased by the issuer thereof at a specified date or upon the occurrence of specified events or at the election of the holder thereof.

"**Significant Subsidiary**" has the meaning set forth in Section 4.4.

"**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).

"**Squeeze Out Notice**" means a notice given under Chapter 2 of Part 9 of the Irish Companies Act given by Bidco to a Target Shareholder who has not accepted the Takeover Offer and implementing the Squeeze Out Procedures.

"**Squeeze Out Procedures**" means the procedures set out in Chapter 2 of Part 9 of the Irish Companies Act for the compulsory acquisition of any minority shareholders in an Irish company.

"**Subsidiary**" means, as of any date of determination and with respect to any Person, any corporation, limited liability company, partnership or joint venture, whether now existing or hereafter organized or acquired: (a) in the case of a corporation or limited liability company, of which a majority of the securities or other ownership interests having ordinary voting power for the election of directors or other governing body (other than securities or other ownership interests having such power only by reason of the happening of a contingency) are at the time beneficially owned by such Person and/or one or more Subsidiaries of such Person, or (b) in the case of a partnership or joint venture, of which such Person or a Subsidiary of such Person is a general partner or joint venturer or of which a majority of the partnership or other ownership interests are at the time beneficially owned by such Person and/or one or more of its Subsidiaries, excluding any partnership or joint venture over which the Person or Subsidiary of such Person does not exercise actual control.

"**Successor Rate Conforming Changes**" means, with respect to any proposed Successor Rate, any conforming changes to the definition of Base Rate, Interest Period, Daily Margin, timing and frequency of determining rates and making payments of interest and other administrative matters as may be appropriate, in the discretion of the Administrative Agent and the Borrower, to reflect the adoption of such Successor Rate and to permit the administration thereof by the Administrative Agent in a manner substantially consistent with market practice (or, if the Administrative Agent and the Borrower determine in good faith and in a commercially reasonable manner that adoption of any portion of such market practice is not administratively feasible or that no market practice for the administration of such Successor Rate exists, in such other manner of administration as determined in the good faith and commercially reasonable discretion of the Administrative Agent and the Borrower).

"**Swap Agreement**" means a written agreement between the Borrower and one or more financial institutions providing for "**swap**", "**collar**" or other interest rate protection (other than "caps") with respect to any Indebtedness.

"**Syndication Agent**" means Bank of America, when acting in its capacity as the syndication agent under any of the Loan Documents.

"**Takeover Offer**" means the "Takeover Offer" under and as defined in the Transaction Agreement.

"**Takeover Offer Document**" means the "Takeover Offer Document" under and as defined in the Transaction Agreement.

"**Takeover Panel**" means the Irish Takeover Panel.

"**Takeover Rules**" means the Irish Takeover Panel Act 1997, Takeover Rules, 2022 and the Irish Takeover Panel Act, 1997, Substantial Acquisition Rules, 2022.

"**Target**" means Horizon Therapeutics Public Limited Company, a public limited company incorporated under the laws of Ireland (with registration number 507678) having its registered office at 70 St. Stephen's Green, Dublin, D02 E2X4, Ireland.

"**Target Acquisition**" means the direct or indirect acquisition by the Borrower, pursuant to a Scheme or a Takeover Offer, of all of the outstanding shares of Target which are subject to the Scheme or Takeover Offer (and, in the case of a Takeover Offer, together with the Squeeze Out Procedures) (as the case may be) for cash consideration.

"**Target Shares**" means all of the issued and to be issued share capital of the Target.

"**Taxes**" has the meaning set forth in Section 3.10(d).

"**Term Rate Advance**" means an Adjusted Term SOFR Rate Advance.

"**Term SOFR**" means,

(a) for any calculation with respect to an Adjusted Term SOFR Advance, 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 this Agreement has not been amended to implement a Successor Rate, 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, and

(b) for any calculation with respect to a Base Rate Advance 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 this Agreement has not been amended to implement a Successor Rate, 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; provided that if Term SOFR determined as provided under this clause (b) shall ever be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement.

"**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.

"**Total Outstandings**" means, as of any date of determination, the sum on that date of the aggregate outstanding principal amount of the Advances.

"**Transaction Agreement**" means the Transaction Agreement, dated as of December 11, 2022, by and among the Borrower, Bidco and the Target. Any reference herein to a section of, or term defined in, the Transaction Agreement means such section or term as defined in the Transaction Agreement in the form delivered to the Arrangers on or prior to the Effective Date.

"**Transactions**" has the meaning set forth in the Preliminary Statements.

"**Type**" when used with respect to any Loan or Advance, means the designation of whether such Loan or Advance is a Base Rate Advance or a Term Rate Advance.

"**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.

"**Unconditional Date**" means the date on which the Takeover Offer is declared or becomes unconditional in all respects.

"**Unused Portion**" means the Commitments, less Total Outstandings.

1.2 **Use of Defined Terms**. Any defined term used in the plural shall refer to all members of the relevant class, and any defined term used in the singular shall refer to any one or more of the members of the relevant class.

1.3 **Accounting Terms**. Unless otherwise specified herein, all accounting terms used herein shall be interpreted, all accounting determinations hereunder shall be made and all financial statements required to be delivered hereunder shall be prepared in accordance with Generally Accepted Accounting Principles as in effect from time to time, applied on a basis consistent (except for changes concurred in by the Borrower's independent public accountants) with the audited consolidated financial statements of the Borrower and its Consolidated Subsidiaries most recently delivered to the Banks; provided, that, if the Borrower notifies the Administrative Agent that the Borrower wishes to amend any covenant in Article 6 to eliminate the effect of any change in Generally Accepted Accounting Principles on the operation of such covenant (or if the Administrative Agent notifies the Borrower that the Majority Banks wish to amend Article 6 for such purpose), then the Borrower's compliance with such covenant shall be determined on the basis of Generally Accepted Accounting Principles in effect immediately before the relevant change in Generally Accepted Accounting Principles became effective, until either such notice is withdrawn or such covenant is amended in a manner satisfactory to the Borrower and the Majority Banks.

1.4 **Rounding**. Any financial ratios required to be maintained by the Borrower pursuant to this Agreement shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed in this Agreement and rounding the result up or down to the nearest number (with a round-up if there is no nearest number) to the number of places by which such ratio is expressed in this Agreement.

1.5 **Exhibits and Schedules**. All Exhibits and Schedules to this Agreement, either as originally existing or as the same may from time to time be supplemented, modified or amended, are incorporated herein by this reference. A matter disclosed on any Schedule shall be deemed disclosed on all Schedules.

1.6 **References to "the Borrower and its Subsidiaries"**. Any reference herein to "the Borrower and its Subsidiaries" or the like shall refer solely to the Borrower during such times, if any, as the Borrower shall have no Subsidiaries.

1.7 **Miscellaneous Terms**. The term "or" is disjunctive; the term "and" is conjunctive. The term "shall" is mandatory; the term "may" is permissive. Masculine terms also apply to females; feminine terms also apply to males. The term "including" is by way of example and not limitation. An Event of Default or Certain Funds Default is "continuing" if it has not been remedied or waived.

1.8 **Divisions**. For all purposes under this Agreement, in connection with any division or plan of division under Delaware law (or any comparable event under a different jurisdiction's laws): (a) if any asset, right, obligation or liability of any Person becomes the asset, right, obligation or liability of a different Person, then it shall be deemed to have been transferred from the original Person to the subsequent Person, and (b) if any new Person comes into existence, such new Person shall be deemed to have been organized and acquired on the first date of its existence by the holders of its equity interests at such time.

1.9 **Rates**. 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 the Base Rate, the Term SOFR Reference Rate, Adjusted Term SOFR or Term SOFR, or any component definition thereof or rates referred to in the definition thereof, or any alternative, successor or replacement rate thereto (including any Successor Rate), including whether the composition or characteristics of any such alternative, successor or replacement rate (including any Successor Rate) will be similar to, or produce the same value or economic equivalence of, or have the same volume or liquidity as, the Base Rate, the Term SOFR Reference Rate, Adjusted Term SOFR, Term SOFR or any other Successor Rate prior to its discontinuance or unavailability, or (b) the effect, implementation or composition of any Successor Rate Conforming Changes. The Administrative Agent and its affiliates or other related entities may engage in transactions that affect the calculation of the Base Rate, the Term SOFR Reference Rate, Term SOFR, Adjusted Term SOFR or any alternative, successor or replacement rate (including any Successor Rate) 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 the Base Rate, the Term SOFR Reference Rate, Term SOFR, Adjusted Term SOFR or any Successor Rate, in each case pursuant to the terms of this Agreement, and shall have no liability to the Borrower, any Bank or any other person or entity for damages of any kind, including direct or indirect, special, punitive, incidental or consequential damages, costs, losses or expenses (whether in tort, contract or otherwise and whether at law or in equity), for any error or calculation of any such rate (or component thereof) provided by any such information source or service.

## ARTICLE 2
## LOANS

2.1 **Advances - General**.

(a) Subject to the terms and conditions set forth in this Agreement, each Bank shall, severally and not jointly, make Advances to the Borrower during the Availability Period in an amount equal to its ratable share (based on the Banks' Commitments) of the Loan requested hereunder by the Borrower, which amount in any case shall not exceed such Bank's Commitment immediately prior to the making of such Advance; provided that all Loans made pursuant to this Section 2.1 shall be made on no more than two (2) Funding Dates. Advances borrowed under this Section 2.1(a) and repaid or prepaid may not be reborrowed.

(b) Subject to the next sentence, each Loan under this Section 2.1 shall be made pursuant to a Request for Loan which shall specify the requested (i) date of such Loan and (ii) Type of Loan, (iii) amount of such Loan and (iv) Interest Period for such Loan. Unless the Administrative Agent has notified, in its sole and absolute discretion, the Borrower to the contrary, a Loan may be requested by telephone by a Senior Officer of the Borrower, in which case the Borrower shall promptly confirm such request by transmitting a telecopy or other electronic communication of, or at the Administrative Agent's request by mailing, a Request for Loan executed by a Senior Officer of the Borrower conforming to the preceding sentence to the Administrative Agent.

(c) Promptly following receipt of a Request for Loan (or the receipt of a substitute request permitted under the second sentence of Section 2.1(b)), the Administrative Agent shall notify each Bank by telephone (so long as such notice by telephone is promptly followed by a notice in writing) or telecopier or other electronic communication (the method of notice shall be at the Administrative Agent's option) of the date and type of the Loan, the applicable Interest Period and the amount of that Bank's ratable share (based on the Banks' Commitments) of the Loan. Not later than 2:00 p.m., New York time, on the date specified for any Loan subject to the provisions of Sections 2.2 and

2.3, each Bank shall make its ratable share (based on the Banks' Commitments) of the Loan in immediately available funds available to the Administrative Agent at the Administrative Agent's Office. Upon fulfillment of the applicable conditions set forth in Article 8 and subject to the provisions of Sections 2.2 and 2.3, all Advances shall be credited in immediately available funds to the Designated Deposit Account.

(d) Each Loan under the Commitments shall be in a minimum amount of $2,000,000 and multiples of $1,000,000 in excess of that amount.

(e) If so requested by any Bank by written notice to the Borrower (with a copy to the Administrative Agent) at least two Banking Days prior to the Initial Funding Date or at any time thereafter, the Borrower shall execute and deliver to such Bank (and/or, if applicable and if so specified in such notice, to any Person who is an assignee of such Bank pursuant to Section 11.9) on the Initial Funding Date (or, if such notice is delivered after the Initial Funding Date, promptly after the Borrower's receipt of such notice) a promissory note or promissory notes to evidence such Bank's Advances under its Commitment, substantially in the form of Exhibit B.

(f) A Request for Loan shall be irrevocable upon the Administrative Agent's first notification thereof.

(g) In connection with the use, administration, adoption or implementation of Adjusted Term SOFR, the Administrative Agent and the Borrower will have the right to make Successor Rate Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Successor Rate Conforming Changes will become effective without any further action or consent of any other party to this Agreement. The Administrative Agent will promptly notify the Banks of the effectiveness of any Successor Rate Conforming Changes in connection with the use or administration of Adjusted Term SOFR.

2.2 **Base Rate Advances**. Each request by a Borrower for a Base Rate Advance shall be made pursuant to a Request for Loan (or telephonic request for Loan referred to in the second sentence of Section 2.1(b), if applicable) received by the Administrative Agent, at the Administrative Agent's Office, not later than 12:00 noon, New York time, on the date of a proposed Base Rate Advance. All Advances denominated in Dollars shall constitute Base Rate Advances unless properly designated as Adjusted Term SOFR Rate Advances pursuant to Section 2.3.

2.3 **Term Rate Advances**.

(a) Each request by the Borrower for an Adjusted Term SOFR Rate Advance shall be made pursuant to a Request for Loan (or telephonic request for Loan referred to in the second sentence of Section 2.1(b), if applicable) received by the Administrative Agent, at the Administrative Agent's Office, not later than 1:00 p.m., New York time, at least three (3) U.S. Government Securities Business Days before the first day of the applicable Interest Period.

(b) On the second U.S. Government Securities Business Day before the first day of the applicable Interest Period in the case of Adjusted Term SOFR Rate Advances, the Administrative Agent shall determine the applicable Adjusted Term SOFR (which determination shall be conclusive in the absence of manifest error), and prior to 1:00 p.m., New York time on that same day shall give notice of the same to the Borrower and the Banks by telephone or telecopier or other electronic communication (the method of notice shall be at the Administrative Agent's option).

(c) Prior to the submission of a Request for Loan with respect to a Term Rate Advance, the Borrower may request the Administrative Agent to provide a non-binding estimate of the Adjusted Term SOFR that would then apply in the event the Borrower submitted a Request for Loan.

2.4 **Voluntary Reduction of Commitments**.

(a) The Borrower shall have the right, at any time and from time to time, without penalty or charge, upon at least two days prior written notice to the Administrative Agent, to voluntarily reduce, permanently and irrevocably, in a minimum amount of $5,000,000 and multiples of $1,000,000 in excess thereof, or to terminate, all or a portion of the then Unused Portion of the Commitments; provided that any such reduction or termination shall be accompanied by payment of all accrued and unpaid facility fees with respect to the portion of the Commitments being reduced or terminated. Any such notice of reduction may be conditioned upon the successful closing of a new financing and the Administrative Agent will promptly notify each Bank thereof and of such Bank's portion of the Commitments being reduced.

(b) The Borrower shall have the right, at any time, upon at least three (3) Banking Days' notice to a Defaulting Bank (with a copy to the Administrative Agent), to terminate in whole such Defaulting Bank's Commitments under this Section 2.4(b). The Borrower will pay all principal of, and interest accrued to the date of such payment on, Advances owing to such Defaulting Bank and pay any accrued facility fee payable to such Defaulting Bank pursuant to Section 3.2 and all other amounts payable to such Defaulting Bank hereunder (including but not limited to any increased costs, additional interest or other amounts owing under Sections 3.5 and 3.6 and any indemnification for Taxes under Section 3.10) and upon such payments, the obligations of such Defaulting Bank hereunder shall, by the provisions hereof, be released and discharged; provided, however, that (i) such Defaulting Bank's rights under Sections 3.5 and 3.6 shall survive such release and discharge as to matters occurring prior to such date and (ii) no claim that the Borrower may have against such Defaulting Bank arising out of such Defaulting Bank's default hereunder shall be released or impaired in any way. The aggregate amount of the Commitments of the Banks once reduced pursuant this Section 2.4(b) may not be reinstated; provided, however, that if pursuant to this Section 2.4(b), the Borrower shall pay to a Defaulting Bank any principal of, or interest accrued on, the Advances owing to such Defaulting Bank, then the Borrower shall either (x) confirm to the Administrative Agent that, except as disclosed by the Borrower and approved in writing by the Administrative Agent, acting at the direction of the Majority Banks, the representations and warranties contained in Article 4, other than Sections 4.4, 4.6 and 4.8, are true and correct in all material respects (except that to the extent any representation or warranty is qualified by materiality, it is true and correct in all respects) on and as of such date of payment as though made on that date (except to the extent such representations and warranties specifically relate to an earlier date in which case they are true and correct in all material respects (except that to the extent any representation or warranty is qualified by materiality, it is true and correct in all respects) as of such earlier date) and no Default has occurred and is continuing or (y) pay or cause to be paid a ratable payment of principal and interest to all Banks who are not Defaulting Banks.

2.5 **Voluntary Conversion or Continuation of Advances**.

(a) The Borrower may on any Banking Day upon notice given to the Administrative Agent not later than 12:00 noon (New York City time) on the third U.S. Government Securities Business Day prior to the date of the proposed Conversion or continuance (a "**Notice of Conversion/Continuation**") and subject to the provisions of Section 2.3, (1) Convert all or any portion of Advances of one Type into Advances made to the Borrower of another Type and (2) upon the expiration of any Interest Period applicable to Advances which are Term Rate Advances, continue all (or, subject to Section 2.3, any portion of) such Advances as Term Rate Advances and the succeeding Interest Period(s) of such continued Advances shall commence on the last day of the Interest Period of the Advances to be continued; provided, however, that any Conversion of any Term Rate Advances into Base Rate Advances shall be made on, and only on, the last day of an Interest Period for such Term Rate Advances. Each such Notice of Conversion/Continuation shall, within the restrictions specified above, specify (i) the date of such continuation or Conversion, (ii) the Advances (or, subject to Section 2.3, any portion thereof) to be continued or Converted, (iii) if such continuation is of, or such Conversion is into, Term Rate Advances, the duration of the Interest Period of each such Advance, and (iv) in the case of a continuation of or a Conversion into a Term Rate Advance, that no Event of Default has occurred and is continuing. Each Conversion or continuation shall be in a minimum amount of $2,000,000, and multiples of $1,000,000.

(b) If upon the expiration of the then existing Interest Period applicable to any Advance which is a Term Rate Advance, the Borrower thereof shall not have delivered a Notice of Conversion/Continuation in accordance with this Section 2.5, then such Advance if it is an Advance of Dollars shall upon such expiration automatically be continued as a Term Rate Advance with an Interest Period of one month.

(c) After the occurrence of and during the continuation of an Event of Default, the Borrower may not elect to have an Advance be made or continued as, or Converted into, a Term Rate Advance after the expiration of any Interest Period then in effect for that Advance.

2.6 **Administrative Agent's Right to Assume Funds Available for Advances**. Unless the Administrative Agent shall have been notified by any Bank no later than the time of the funding by the Administrative Agent of any Loan that such Bank does not intend to make available to the Administrative Agent such Bank's its ratable share (based on the Banks' Commitments) of the total amount of such Loan, the Administrative Agent may assume that such Bank has made such amount available to the Administrative Agent on the date of the Loan and the Administrative Agent may, in reliance upon such assumption, make available to the applicable Borrower a corresponding amount. If the Administrative Agent has made funds available to the Borrower based on such assumptions and such corresponding amount is not in fact made available to the Administrative Agent by such Bank, the Administrative Agent shall be entitled to recover such corresponding amount on demand from such Bank, which demand shall be made in a reasonably prompt manner. If such Bank does not pay such corresponding amount forthwith upon the Administrative Agent's demand therefor, the Administrative Agent promptly shall notify the applicable Borrower and the Borrower shall pay such corresponding amount to the Administrative Agent. The Administrative Agent also shall be entitled to recover from such Bank interest on such corresponding amount in respect of each day from the date such corresponding amount was made available by the Administrative Agent to the Borrower to the date such corresponding amount is recovered by the Administrative Agent, at a rate per annum equal to the average overnight federal funds rate. Nothing herein shall be deemed to relieve any Bank from its obligation to fulfill its Commitment or to prejudice any rights that the Administrative Agent or the Borrower may have against any Bank as a result of any default by such Bank hereunder.

2.7 **Mandatory Commitment Termination or Reduction.**

(a) In the event that the Borrower actually receives any Net Cash Proceeds arising from any Equity Issuance or the Borrower or any of its Subsidiaries actually receives any Net Cash Proceeds arising from any Debt Issuance (other than a Debt Issuance under any committed term loan or revolving facility that has reduced the Commitments hereunder pursuant to clause (b) below) or Asset Sale, in each case which Net Cash Proceeds are received during the period commencing on the Effective Date and ending on the last day of the Availability Period, then the Commitments then outstanding shall be automatically reduced in an amount equal to (x) 100% of such Net Cash Proceeds on the date of receipt by the Borrower or, as applicable, any Subsidiary of the Borrower of such Net Cash Proceeds, less (y) if such Net Cash Proceeds are received by the Borrower after the Initial Funding Date, the amount of such Net Cash Proceeds applied to prepay the Advances pursuant to Section 2.8(a). The Borrower shall promptly notify the Administrative Agent of the receipt by the Borrower, or, as applicable, any other member of the Consolidated Group, of such Net Cash Proceeds from any Equity Issuance, Debt Issuance or Asset Sale, and such notice shall be accompanied by a reasonably detailed calculation of the Net Cash Proceeds received. Notwithstanding the foregoing, mandatory commitment reductions with respect to Net Cash Proceeds from Debt Issuances or Asset Sales received by a Foreign Subsidiary shall not be required if and for so long as the Borrower has determined in good faith (which determination shall be conclusive) that repatriation to the Borrower of such Net Cash Proceeds (x) would have adverse tax consequences (and, in the case of Debt Issuances, such adverse tax consequences are material), (y) would be prohibited, delayed or restricted under applicable local law or (z) would violate the applicable organizational documents of such Subsidiary.

(b)

(i) In the event that the Borrower or any of its Subsidiaries enters into any committed term loan facility for the purpose of financing the Transactions (including any New Term Loan Facility), automatically upon the effectiveness of the definitive documentation for such term loan facility (including any New Term Loan Facility) and, other than in respect of any New Term Loan Facility, receipt by the Administrative Agent of a notice from the Borrower that such term loan facility constitutes a Qualifying Term Loan Facility, the Commitments then outstanding shall be reduced in an amount equal to 100% of the committed amount under such New Term Loan Facility or other Qualifying Term Loan Facility on the date of receipt by the Administrative Agent of such notice.

(ii) In the event that the Borrower or any of its Subsidiaries enters into any committed revolving facility, the use of proceeds of which includes financing a portion of the Transactions, automatically upon the effectiveness of the definitive documentation for such revolving facility and receipt by the Administrative Agent of a notice from the Borrower that such revolving facility constitutes a Qualifying Revolving Facility, the Commitments then outstanding shall be reduced in an amount equal to 100% of the commitments under such Qualifying Revolving Facility that are subject to conditions precedent to funding that are no less favorable to the Borrower than the conditions set forth herein to the funding of the Bridge Facility (as determined by the Borrower in its reasonable discretion) on the date of receipt by the Administrative Agent of such notice.

(c) Unless previously terminated, the Commitments shall automatically terminate at 5:00 p.m. (New York time) on the earlier of (i) the date on which all of the Certain Funds Purposes have been achieved without the making of any Advances and (ii) the time immediately after a Mandatory Cancellation Event occurs; provided that (x) upon a Bank's making of an Advance hereunder, such Bank's Commitment shall be automatically reduced by the principal amount of such Advance and (y) in any event the Commitments shall terminate in full on the earlier of the last day of the Availability Period and the second Funding Date after the proceeds of the Advances have been made available to the Borrower.

2.8 **Prepayments.**

(a) Mandatory Prepayments. In the event that the Borrower actually receives any Net Cash Proceeds arising from any Equity Issuance or the Borrower or any other member of the Consolidated Group actually receives any Net Cash Proceeds arising from any Debt Issuance (other than a Debt Issuance under any committed term loan facility that has reduced the Commitments hereunder pursuant to Section 2.7(b) above) or Asset Sale, in each case which Net Cash Proceeds are received after the Initial Funding Date, then the Borrower shall prepay the Advances in an amount equal to 100% of such Net Cash Proceeds not later than three Banking Days following the receipt by the Borrower or any such Subsidiary of such Net Cash Proceeds. The Borrower shall promptly (and not later than the date of receipt thereof) notify the Administrative Agent of the receipt by the Borrower or, as applicable, any other member of the Consolidated Group, of such Net Cash Proceeds from any Equity Issuance, Debt Issuance or Asset Sale, and such notice shall be accompanied by a reasonably detailed calculation of the Net Cash Proceeds. Each prepayment of Advances shall be applied ratably and shall be accompanied by accrued interest and fees on the amount prepaid to the date fixed for prepayment, plus, in the case of any Term Rate Advances, any amounts due to the Banks under Section 3.6(c).

Notwithstanding the foregoing, mandatory repayments with respect to Net Cash Proceeds from Debt Issuances or Asset Sales received by a Foreign Subsidiary shall not be required if and for so long as the Borrower has determined in good faith (which determination shall be conclusive) that repatriation to the Borrower of such Net Cash Proceeds (x) would have adverse tax consequences (and, in the case of Debt Issuances, such adverse tax consequences are material), (y) would be prohibited, delayed or restricted under applicable local law or (z) would violate the applicable organizational documents of such Subsidiary.

2.9 **Defaulting Banks**.

(a) If a Bank becomes, and during the period it remains, a Defaulting Bank, then any amounts paid by the Borrower or otherwise received by the Administrative Agent for the account of a Defaulting Bank under this Agreement (whether on account of principal, interest, fees, indemnity payments or other amounts) will not be paid or distributed to such Defaulting Bank, but will instead be retained by the Administrative Agent in a segregated non-interest bearing account until (subject to Section 2.9(c)) the termination of the Commitments and payment in full of all obligations of the Borrower hereunder and will be applied by the Administrative Agent, to the fullest extent permitted by law, to the making of payments from time to time in the following order of priority: first to the payment of any amounts owing by such Defaulting Bank to the Administrative Agent under this Agreement, second to the payment of post-default

interest and then current interest due and payable to the Banks hereunder other than Defaulting Banks, ratably among them in accordance with the amounts of such interest then due and payable to them, third to the payment of fees then due and payable to the Non-Defaulting Banks hereunder, ratably among them in accordance with the amounts of such fees then due and payable to them, fourth to pay principal then due and payable to the Non-Defaulting Banks hereunder ratably in accordance with the amounts thereof then due and payable to them, fifth to the ratable payment of other amounts then due and payable to the Non-Defaulting Banks, and sixth after the termination of the Commitments and payment in full of all obligations of the Borrower hereunder, to pay amounts owing under this Agreement to such Defaulting Bank or as a court of competent jurisdiction may otherwise direct. Any payments, prepayments or other amounts paid or payable to a Defaulting Bank that are applied (or held) to pay amounts owed by a Defaulting Bank or to post cash collateral pursuant to this Section 2.9(a) shall be deemed paid to and redirected by such Defaulting Bank, and each Bank irrevocably consents hereto.

(b) No Commitment of any Bank shall be increased or, except as otherwise expressly provided in Section 2.9(a), otherwise affected, and performance by the Borrower of its obligations shall not be excused or otherwise modified as a result of the operation of Section 2.9(a). The rights and remedies against a Defaulting Bank under Section 2.9(a) are in addition to any other rights and remedies which the Borrower, the Administrative Agent or any Bank may have against such Defaulting Bank.

(c) If the Borrower and the Administrative Agent agree in writing in their reasonable determination that a Defaulting Bank or a Potential Defaulting Bank should no longer be deemed to be a Defaulting Bank or a Potential Defaulting Bank, as the case may be, 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 Bank will, to the extent applicable, purchase that portion of outstanding Advances of the other Banks or take such other actions as the Administrative Agent may determine to be necessary to cause the Advances to be funded and held on a pro rata basis by the Banks in accordance with their respective Commitments and Advances, whereupon such Bank will cease to be a Defaulting Bank or Potential Defaulting Bank; provided that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower while that Bank was a Defaulting Bank; and provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Bank or Potential Defaulting Bank to Bank will constitute a waiver or release of any claim of any party hereunder arising from such Bank's having been a Defaulting Bank or Potential Defaulting Bank.

## ARTICLE 3
## Payments and Fees

3.1 **Principal and Interest**.

(a) Interest shall be payable on the outstanding daily unpaid principal amount of each Loan from the date thereof until payment in full is made and shall accrue and be payable at the rates set forth herein before and after default, before and after maturity, before and after judgment, and before and after the commencement of any proceeding under any Debtor Relief Law, with interest on overdue interest to bear interest at the Default Rate to the fullest extent permitted by applicable Laws.

(b) Interest accrued on each Base Rate Advance shall be payable quarterly in arrears on the last day of each March, June, September and December commencing on the first such date to occur after the Initial Funding Date. Except as otherwise provided in Section 3.7, the unpaid principal amount of any Base Rate Advance shall bear interest at a fluctuating rate per annum equal to the Base Rate plus the Daily Margin for such Base Rate Advance for each day during the applicable period. Each change in the interest rate hereunder shall take effect simultaneously with the corresponding change in the Base Rate. Each change in the Base Rate shall be effective as of 12:01 a.m., New York time, on the Banking Day on which the change in the Base Rate is announced, unless otherwise specified in such announcement, in which case the change shall be effective as so specified.

(c) Interest accrued on each Term Rate Advance, the Interest Period for which is three months or less, shall be due and payable on the last day of the applicable Interest Period. Interest accrued on each other Term Rate Advance shall be due and payable on every three month anniversary of the date which is three months after the date such Term Rate Advance was made, converted or continued pursuant to Section 2.5 and on the last day of the Interest Period. Except as otherwise provided in Section 3.7, (i) the unpaid principal amount of any Term Rate Advance shall bear interest at a rate per annum equal to Adjusted Term SOFR for such Term Rate Advance plus the Daily Margin for such Term Rate Advance for each day during the applicable period.

(d) If not sooner paid, the principal amount of each Advance shall be payable to each Bank on the Maturity Date applicable to such Advance.

(e) The Loans may, at any time and from time to time, voluntarily be paid or prepaid in whole or in part without premium or penalty, except that with respect to any voluntary prepayment under this subsection, (i) any partial prepayment shall be in minimum amount of $2,000,000 and multiples of $1,000,000 in excess thereof, (ii) the Administrative Agent shall have received written notice of any prepayment by (x) 11:00 a.m. (New York time) on the date of prepayment (which shall be a Banking Day), in the case of a Base Rate Advance, and (y) by 1:00 p.m. (New York time) three (3) U.S. Government Securities Business Days before the date of prepayment, in the case of a Term Rate Advance, which notice shall identify the date and amount of the prepayment and the Loan(s) being prepaid, (iii) each prepayment of principal shall be accompanied by payment of interest accrued through the date of payment on the amount of principal paid and (iv) in any event, any payment or prepayment of all or any part of any Term Rate Advance on a day other than the last day of the applicable Interest Period shall be subject to Section 3.6(c). Any such notice of prepayment may be conditioned upon the successful closing of a new financing and the Administrative Agent will promptly notify each Bank thereof and of such Bank's portion of the outstanding Loans being prepaid; provided that, to the extent such notice of prepayment is rescinded and/or the prepayment is not made, the Borrower shall pay any amounts required to be made under Section 3.6(c).

3.2 **Ticking Fee**. The Borrower shall pay, or cause to be paid, to the Administrative Agent, for the account of each Bank (other than a Defaulting Bank for such time as such Bank is a Defaulting Bank), a non-refundable ticking fee calculated (in accordance with Section 3.8) on a daily basis at 0.125% per annum on the aggregate outstanding Commitments of each Bank under the Bridge Facility as of such date, accruing commencing on the 90th day after the Effective Date and payable in arrears (with respect to all amounts accrued to such date) (A)(i) on the Initial Funding Date, (ii) thereafter quarterly on the last day of each March, June, September and December until the Commitments are terminated in full, and (iii) on the second Funding Date,

or (B) the earlier termination of the Commitments in full. For the avoidance of doubt, with respect to the definition of "Mandatory Cancellation Event" and the ability thereunder for the Borrower to provide notices and issue documents to facilitate a switch from a Scheme to a Takeover Offer and vice versa, the Commitments shall be deemed to be in effect until the end of the day on which the applicable notice or issuance is required to but does not occur for the purposes of calculating any fees under this Agreement or any fee letters related hereto.

3.3 **Duration Fee**. On each of the 90th, 180th and 270th days after the Initial Funding Date, the Borrower agrees to pay to the Administrative Agent for the account of each Bank a Duration Fee.

3.4 **Fees**. On the Effective Date, the Borrower shall pay to the Arrangers fees in the amounts agreed upon in the Fee Letter. On the dates set forth in the Fee Letter, the Borrower shall pay fees to the Administrative Agent for the account of each Bank in the amounts agreed upon in the Fee Letter. The Borrower shall pay to the Administrative Agent agency fees in the amounts agreed upon by letter agreement dated on or about the date hereof between the Borrower and the Administrative Agent. Such agency fees shall be payable annually in advance as set forth in such letter agreements. The agency fees are for the sole account of the Administrative Agent and are fully earned upon receipt and non-refundable; provided, however that in the event the facilities hereunder are terminated, the agency fees deemed earned shall be pro rated over the number of days from the last quarterly date on which the agency fees were paid to the termination date of the facilities.

3.5 **Capital Adequacy** If any Bank determines in good faith that compliance with any Law or regulation or with any guideline or request (excluding any published as of the date hereof or currently scheduled to take effect) from any central bank or other Governmental Agency (whether or not having the force of Law), in each case adopted or effective after the date hereof has or would have the effect of reducing the rate of return on the capital of such Bank or any corporation controlling such Bank as a consequence of, or with reference to, such Bank's Commitment or its making or maintaining of Advances, below the rate which such Bank or such other corporation could have achieved but for such compliance (taking into account the policies of such Bank or corporation with regard to capital), then the Borrower shall from time to time, upon demand by such Bank (following the expiry of the Certain Funds Period and with a copy of such demand to the Administrative Agent), immediately pay to such Bank additional amounts sufficient to compensate such Bank or other corporation for such reduction. A certificate as to such amounts, setting forth in reasonable detail the basis for such calculations, submitted to the Borrower and the Administrative Agent by such Bank, shall be conclusive and binding for all purposes, absent manifest error. Each Bank agrees promptly to notify the Borrower and the Administrative Agent of any circumstances that would cause the Borrower to pay additional amounts pursuant to this Section 3.5.

3.6 **Increased Costs**.

(a) If, after the date hereof, by reason of (i) any change in the interpretation or administration of any existing Law by any Governmental Agency, central bank or comparable authority charged with the interpretation or administration thereof, or (ii) compliance by any Bank or its Applicable Lending Office with any request or directive (whether or not having the force of Law) of any such Governmental Agency, central bank or comparable authority:

(1) (A) any reserve (including, without limitation, any reserve imposed by the Board of Governors of the Federal Reserve System), liquidity, special deposit, compulsory loan, insurance charge or similar requirements shall be imposed, modified or deemed applicable against assets of, deposits with or for the account of, or credit extended by, any Bank or its Applicable Lending Office; or (B) any Bank or its Applicable Lending Office shall have imposed on it any other condition, cost or expense affecting any Advance, any of its Notes, its obligation to make Advances or this Agreement, or its obligation to make or any of the same shall otherwise be adversely affected;

and the result of any of the foregoing, as determined by such Bank, increases the cost to such Bank or its Applicable Lending Office of making, converting to, continuing or maintaining any Advance or in respect of any Advance, any of its Notes or its obligation to make Advances or reduces the amount of any sum received or receivable by such Bank or its Applicable Lending Office with respect to any Advance, any of its Notes or its obligation to make Advances or its participation therein, then, upon demand by such Bank (with a copy to the Administrative Agent), the Borrower shall (following the expiry of the Certain Funds Period) pay to such Bank, as the case may be, such additional amount or amounts as will compensate such Bank, as the case may be, for such increased cost or reduction; provided, however, that this Section 3.6 shall not apply to any increased cost resulting from Indemnified Taxes, which are covered by Section 3.10 or Excluded Taxes. A statement of any Bank claiming compensation under this subsection and setting forth the additional amount or amounts to be paid to it hereunder shall be conclusive in the absence of manifest error. Each Bank agrees to endeavor promptly to notify the Borrower of any event of which it has actual knowledge (and, in any event, within 90 days from the date on which it obtained such knowledge), occurring after the Effective Date, which will entitle such Bank to compensation pursuant to this Section 3.6, and agrees to designate a different Applicable Lending Office if such designation will avoid the need for or reduce the amount of such compensation and will not, in the judgment of such Bank, otherwise be disadvantageous to such Bank. If any Bank claims compensation under this Section 3.6, the Borrower may at any time, upon at least four (4) Banking Days' prior notice to the Administrative Agent and Banks and upon payment in full of the amounts provided for in this Section 3.6 through the date of such payment plus any fee required by Section 3.6(c), pay in full all Advances or request that all Term Rate Advances be converted to Base Rate Advances or all Base Rate Advances be converted to Term Rate Advances.

(2) If any Bank shall have reasonably determined that it shall be unlawful for such Bank or its Applicable Lending Office to make, maintain or fund its portion of any Term Rate Advance, or to determine or charge interest rates based upon the Adjusted Term SOFR has become unlawful, then such Bank shall so notify the Administrative Agent and the other Banks, and such Bank's obligation to make Term Rate Advances shall be suspended for the duration of such illegality and the Administrative Agent forthwith shall give notice thereof to the Borrower and such Bank shall make a Base Rate Advance as part of any successive Term Rate Advance. Upon receipt of such notice, the outstanding principal amount of all Term Rate Advances made by such Bank automatically shall be converted to Base Rate Advances on either (A) the last day of the Interest Period(s) applicable to such Term Rate Advances if the affected Bank may lawfully continue to maintain and fund such Term Rate Advances to such day(s) or (B) immediately if the affected Bank may not lawfully continue to fund and maintain such Term Rate Advances to such day(s), provided that in such event the conversion shall not be subject to payment of a fee under Section 3.6(c).

(b) If, with respect to any proposed Term Rate Advance, the Majority Banks advise the Administrative Agent that the Adjusted Term SOFR, as determined by the Administrative Agent (1) does not represent the effective pricing to such Banks for deposits in Dollars in the interbank market in the relevant amount for the applicable Interest Period, or (2) will not adequately and fairly reflect the cost to such Banks of making the applicable Term Rate Advances, then the Administrative Agent forthwith shall give notice thereof to the Borrower and the Banks, whereupon until the Administrative Agent notifies the Borrower that the circumstances giving rise to such suspension no longer exist, the obligation of the Banks to make any future Term Rate Advances shall be suspended. If at the time of such notice there is then pending a Request for Loan that specifies a Term Rate Advance, such Request for Loan shall be deemed to specify a Base Rate Advance in Dollars. If at the time of such notice there are any Term Rate Advances outstanding, all such Term Rate Advances automatically shall be converted to Base Rate Advances on the last day of the Interest Period(s) applicable to such Term Rate Advances.

(c) The Borrower shall compensate each Bank for any loss sustained by that Bank in connection with the liquidation or re-employment of funds, excluding any loss of margin, and, without duplication, all actual out-of-pocket expenses (excluding allocations of any expense internal to such Bank) reasonably attributable thereto that such Bank may sustain: (i) if for any reason (other than a default by that Bank) a borrowing of any Term Rate Advance does not occur on a date or in the amount specified therefor in a Request for Loan or a telephonic request for loan or a Conversion to or continuation of any Term Rate Advance does not occur on a date specified therefor in a Notice of Conversion/Continuation or a telephone request for Conversion or continuation; (ii) if any prepayment or other principal payment or any conversion (other than as a result of a conversion required under Section 3.6(a)(2)) or assignment in accordance with Section 3.17 of any of its Term Rate Advances occurs on a date prior to the last day of an Interest Period applicable to that Loan, or (iii) if any prepayment of any of its Term Rate Advances is not made on any date specified in a notice of prepayment given by the Borrower. Each Bank's determination of any amount payable under this Section 3.6(c) shall be conclusive in the absence of manifest error. Each Bank shall submit an invoice to the Administrative Agent of the amount payable by the Borrower under this Section 3.6(c) setting forth in reasonable detail the basis for such amount and the Administrative Agent shall notify the Borrower of such amount. The Borrower shall pay such amount to the Administrative Agent for the account of the relevant Bank, and the Administrative Agent shall promptly pay each relevant Bank the portion of the amount owed to it.

(d) Anything in this Agreement to the contrary notwithstanding, to the extent any notice under Section 3.5, 3.6 or 3.10 is given by any Bank more than 180 days after such Bank has knowledge (or should have had knowledge) of the occurrence of the event (or, in the case of a claim under Section 3.10, of the amount of such claim) giving rise to the additional cost, reduction in amounts, loss, Tax or other additional amounts described in such Section 3.5, 3.6 or 3.10, as the case may be, such Bank shall not be entitled to compensation under such Section for any such amounts incurred or accruing prior to the giving of such notice (except that, if such event giving rise to the cost, reduction in amounts, loss, Tax or other amounts described in such Section 3.5, 3.6 or 3.10 is retroactive, then the 180 day period referred to above shall be extended to include the period of retroactivity effective thereof).

(e) Notwithstanding anything to the contrary in this Agreement or any other Loan Documents, if the Administrative Agent determines (which determination shall be conclusive absent manifest error) that:

(i) adequate and reasonable means do not exist for ascertaining the applicable Reference Rate for any requested Interest Period, including, without limitation, because the applicable Reference Rate is not available or published on a current basis and such circumstances are unlikely to be temporary; or

(ii) the supervisor for the administrator of the applicable Reference Rate or a governmental authority having jurisdiction over the Administrative Agent has made a public statement identifying a specific date after which the applicable Reference Rate shall no longer be used for determining the interest rate of loans (such specific date, the "**Scheduled Unavailability Date**"),

then, after such determination by the Administrative Agent, the Administrative Agent and the Borrower may amend this Agreement (i) to replace the applicable Reference Rate with an alternate benchmark rate (including any mathematical or other adjustments to the benchmark (if any) incorporated therein) that gives due consideration to the then prevailing market convention for determining a rate of interest for syndicated loans in the United States at such time in lieu of the applicable Reference Rate (any such proposed rate, a "**Successor Rate**"; provided that if the Successor Rate shall be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement), and (ii) to make any Successor Rate Conforming Changes (as defined below) and, notwithstanding anything to the contrary in Section 11.2, any such amendment shall become effective without any further action or consent of any other party to this Agreement at 5:00 p.m. (New York time) on the fifth Banking Day after the Administrative Agent shall have posted such proposed amendment to all Banks and the Borrower unless, prior to such time, Banks comprising the Majority Banks have delivered to the Administrative Agent notice that such Majority Banks do not accept such amendment.

If no Successor Rate has been determined and the circumstances under clause (i) above exist or the Scheduled Unavailability Date has occurred, the obligation of the Banks to make or maintain Term Rate Advances shall be suspended (to the extent of the affected Term Rate Advances or Interest Periods). Upon receipt of notice from the Administrative Agent regarding its determination, the Borrower may revoke any pending request for a Borrowing of, conversion to, or continuation of, Term Rate Advances (to the extent of the affected Term Rate Advances or Interest Periods) or, failing that, will be deemed to have converted such request into a request for a Borrowing of Base Rate Advances at the end of the then Interest Period in the amount specified therein.

3.7 **Default Rate**. Upon the occurrence and during the continuation of any Event of Default under Section 9.1(a) or (b), the outstanding principal amount of all Advances and, to the extent permitted by applicable Law, any interest payments thereon not paid when due and any fees and other amounts then due and payable hereunder, shall thereafter bear interest at a fluctuating interest rate per annum at all times equal to 2% in excess of the interest rate otherwise payable under this Agreement with respect to the applicable Advances (or, in the case of any such fees and other amounts, at a rate which is 2% per annum in excess of the interest rate otherwise payable under this Agreement for Base Rate Advances), to the fullest extent permitted by applicable Laws; provided that, in the case of Term Rate Advances, upon the expiration of the Interest Period in effect at the time any such increase in interest rate is effective such Term Rate

Advances shall thereupon become Base Rate Advances and shall thereafter bear interest payable upon demand at a rate which is 2% per annum in excess of the interest rate otherwise payable under this Agreement for Base Rate Advances. Accrued and unpaid interest on past due amounts (including, without limitation, interest on past due interest) shall be compounded daily and shall be payable on demand, to the fullest extent permitted by applicable Laws.

3.8 **Computation of Interest and Fees**. Computation of interest on Base Rate Advances when the Base Rate is calculated by reference to Citibank's base commercial lending rate shall be calculated on the basis of a year of 365 or 366 days, as the case may be, and actual days elapsed. Computation of all fees and other interest (including in the case of interest on Base Rate Advances determined by reference to Adjusted Term SOFR or the Federal Funds Effective Rate and Adjusted Term SOFR Rate Advances) shall be calculated on the basis of a year of 360 days and the actual number of days elapsed. Any Advance that is repaid on the same day on which it is made shall bear interest for one day.

3.9 **Non-Banking Days**. If any payment to be made by a Borrower or any other party under any Loan Document shall come due on a day other than a Banking Day, payment shall instead be considered due on the next succeeding Banking Day and the extension of time shall be reflected in computing the amount of such payment.

3.10 **Manner and Treatment of Payments**.

(a) Except as set forth in the next sentence, each payment hereunder or on the Notes or under any other Loan Document shall be made to the Administrative Agent, at the Administrative Agent's Office, for the account of each of the appropriate Banks in immediately available funds, without any set-off or counterclaim, not later than 2:00 p.m., New York time, on the day of payment (which must be a Banking Day). All payments received after 2:00 p.m., New York time or local time (as the case may be), on any particular Banking Day, shall be deemed received on the next succeeding Banking Day. The amount of all payments received by the Administrative Agent for the account of each Bank shall be promptly paid by the Administrative Agent to the applicable Bank in immediately available funds. All payments of principal, interest and all other amounts payable under this Agreement shall be made in Dollars.

(b) Prior to the occurrence of any Event of Default, each payment or prepayment received by the Administrative Agent on account of any Loan shall be applied:

(i) To the Loans, pro rata in accordance with the aggregate principal amount thereof owed to each Bank,

(ii) Any mandatory prepayment of Loans shall be applied first to Base Rate Advances to the full extent thereof before application to Term Rate Advances as determined by Administrative Agent, in each case in a manner which minimizes the amount of any payments required to be made by Borrower pursuant to Section 3.6(c).

(c) Each Bank shall use its best efforts to keep a record of Advances made by it and payments received by it with respect to its Loans and, subject to Section 11.9(g), such record shall be presumptive evidence of the amounts owing. Notwithstanding the foregoing sentence, no Bank shall be liable to any party for any failure to keep such a record.

(d)

(i) Any and all payments by the Borrower to or for the account of the Administrative Agent or any Bank under this Agreement or any other Loan Document shall be made free and clear of and without deduction for any and all present or future taxes, duties, levies, imposts, deductions, assessments, fees, withholdings or similar charges imposed by any Governmental Agency, and all liabilities with respect thereto (collectively, "**Taxes**"), except as required by Law, excluding, in the case of the Administrative Agent and each Bank, (A) any Taxes imposed on or measured by its net income (however denominated), franchise taxes imposed on it and branch profits Taxes, in each case, (1) imposed by the jurisdiction (or any political subdivision thereof) under the Laws of which the Administrative Agent or such Bank, as the case may be, is organized or maintains a lending office or (2) that are Other Connection Taxes, (B) any Taxes attributable to the Administrative Agent's or such Bank's failure or inability to provide the forms set forth in Section 11.27, other than as a result of a change in applicable Law after the date such Person became a party to this Agreement, (C) United States withholding Taxes imposed on amounts payable to or for the account of a Bank with respect to an applicable interest in a Loan or Commitment pursuant to a Law in effect on the date on which (1) such Bank acquires such interest in the Loan or Commitment or (2) such Bank changes its lending office; except in each case to the extent that, if at the date of the Assignment Agreement pursuant to which a Bank assignee becomes a party to this Agreement or at the date of such Bank changing its lending office, the assignor or such Bank was entitled to payments under this Section 3.10(d)(i) or (iii) in respect of such United States withholding Tax paid at such date and (D) Taxes imposed under FATCA (all such non-excluded Taxes being hereinafter referred to as "**Indemnified Taxes**" and all such excluded Taxes being hereinafter referred to as "**Excluded Taxes**"). If the Borrower or the Administrative Agent shall be required by any Laws to deduct any Taxes from or in respect of any sum payable under any Loan Document to the Administrative Agent or any Bank, as applicable, (i) if such Taxes are Indemnified Taxes, then the sum payable by the Borrower shall be increased as necessary so that after all such required deductions are made (including deductions applicable to additional sums payable under this Section 3.10(d)), each of the Administrative Agent and such Bank receives an amount equal to the sum it would have received had no such deductions been made, (ii) the Borrower or the Administrative Agent, as applicable, shall make such deductions, (iii) the Borrower or the Administrative Agent, as applicable, shall pay the full amount deducted to the relevant Governmental Agency in accordance with applicable Laws, and (iv) as soon as practicable after the date of such payment, the Borrower shall furnish to the Administrative Agent (which shall forward the same to such Bank) the original or a certified copy of a receipt evidencing payment thereof (to the extent available).

(ii) In addition, the Borrower agrees to pay any and all present or future stamp, court or documentary Taxes and any other excise or property Taxes or charges or similar levies which arise from any payment made under any Loan Document or from the execution, delivery, performance, enforcement or registration of, or otherwise with respect to, any Loan Document, except any such Taxes imposed as a result of a grant of a participation, designation of a new lending office, transfer or assignment (other than an assignment pursuant to a request by a Borrower under Section 3.17) (hereinafter referred to as "**Other Taxes**").

(iii) The Borrower agrees to indemnify the Administrative Agent and each Bank for (A) the full amount of Indemnified Taxes and Other Taxes (including any Indemnified Taxes or Other Taxes imposed or asserted by any jurisdiction on amounts payable under this Section 3.10) payable or paid by the Administrative Agent and such Bank and (B) any interest, penalties or additions to tax arising therefrom or with respect thereto, in each case whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Agency. Payment under this Section 3.10(d)(iii) shall be made within 30 days after the date the Bank or the Administrative Agent makes a written demand therefor.

(iv) If the Borrower is required to pay additional amounts to or for the account of any Bank pursuant to this Section 3.10, then such Bank will change the jurisdiction of its applicable lending office if, in the judgment of such Bank, such change (A) will eliminate or reduce any such additional payment that may thereafter accrue and (B) is not otherwise disadvantageous to such Bank.

(v) Each Bank shall severally indemnify the Administrative Agent, within 10 days after demand therefor, for (i) any Indemnified Taxes attributable to such Bank (but only to the extent that the Borrower has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Borrower to do so), (ii) any Taxes attributable to such Bank's failure to comply with the provisions of Section 11.9(e) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Bank, in each case, that are payable or paid by the Administrative Agent in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Agency. A certificate as to the amount of such payment or liability delivered to any Bank by the Administrative Agent shall be conclusive absent manifest error. Each Bank hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Bank under any Loan Document or otherwise payable by the Administrative Agent to the Bank from any other source against any amount due to the Administrative Agent under this paragraph (v).

(vi) If any party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified or reimbursed pursuant to this Section 3.10(d) or with respect to which the indemnifying party has paid an additional or indemnification amount hereunder, it shall pay to the indemnifying party (within thirty (30) days after such Person became aware it received such refund) an amount equal to such refund (but only to the extent of indemnity payments made under this Section 3.10(d) with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Agency with respect to such refund). In the event such indemnified party is required by the relevant Governmental Agency to repay any portion of such refund, then such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party such portion of any refund previously paid over to such indemnifying party (plus any penalties, interest or other charges imposed by such Governmental Agency with respect to such portion of such refund). Notwithstanding anything to the contrary in this Section 3.10(d)(vi),

in no event will the indemnified party be required to pay any amount to the indemnifying party pursuant to this Section 3.10(d)(vi) to the extent such payment 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 paragraph 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.

(vii) For purposes of this Section 3.10(d), the term "Law" includes FATCA.

(viii) Each party's obligations under this Section 3.10(d) shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Bank, the termination of the Commitments, and the repayment, satisfaction or discharge of all obligations under any Loan Document.

3.11 **Funding Sources**. Nothing in this Agreement shall be deemed to obligate any Bank to obtain the funds for any Loan or Advance in any particular place or manner or to constitute a representation by any Bank that it has obtained or will obtain the funds for any Loan or Advance in any particular place or manner.

3.12 **Failure to Charge Not Subsequent Waiver**. Any decision by any Bank not to require payment of any interest (including interest arising under Section 3.7), fee, cost or other amount payable under any Loan Document, or to calculate any amount payable by a particular method, on any occasion shall in no way limit or be deemed a waiver of such Bank's right to require full payment of any interest (including interest arising under Section 3.7), fee, cost or other amount payable under any Loan Document, or to calculate an amount payable by another method, on any other or subsequent occasion.

3.13 **Administrative Agent's Right to Assume Payments Will be Made by Borrower**. Unless the Administrative Agent shall have been notified by the Borrower prior to the date on which any payment to be made by that Borrower hereunder is due that the Borrower does not intend to remit such payment, the Administrative Agent may, in its discretion, assume that the Borrower has remitted such payment when so due and the Administrative Agent may, in its discretion and in reliance upon such assumption, make available to each Bank on such payment date an amount equal to such Bank's share of such assumed payment. If a Borrower has not in fact remitted such payment to the Administrative Agent, each Bank shall forthwith on demand repay to the Administrative Agent the amount of such assumed payment made available to such Bank, together with interest thereon in respect of each day from and including the date such amount was made available by the Administrative Agent to such Bank to the date such amount is repaid to the Administrative Agent at a rate per annum equal to the average overnight federal funds rate.

3.14 **Fee Determination Detail**. The Administrative Agent and any Bank, shall provide reasonable detail to the Borrower regarding the manner in which the amount of any payment to the Banks, or that Bank, under Article 3 has been determined.

3.15 **Survivability**. All of the Borrower's obligations under Sections 3.5 and 3.6 shall survive for thirty (30) days following the termination of this Agreement; provided, however, that such obligations shall not, from and after the termination of this Agreement, be deemed Obligations for any purpose under the Loan Documents.

3.16 **Dodd-Frank, Etc**. For the avoidance of doubt and notwithstanding anything herein to the contrary, for the purposes of Sections 3.5 and 3.6, (a) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, regulations, guidelines, interpretations or directives thereunder or issued in connection therewith (whether or not having the force of law) and (b) all requests, rules, regulations, guidelines, interpretations or 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 (whether or not having the force of law), in case for this clause (b) pursuant to Basel III, shall in each case be deemed to be a change in Law regardless of the date enacted, adopted, issued, promulgated or implemented.

3.17 **Replacement of Banks**. If (a) any Bank requests compensation under Sections 3.5 and 3.6, (b) the Borrower is required to pay additional amounts to any Bank or any Governmental Agency for the account of any Bank pursuant to Section 3.10, (c) any Bank is a Defaulting Bank or (d) any Bank fails to consent to a requested amendment, waiver or modification to any Loan Document in which the Majority Banks have already consented to such amendment, waiver or modification but the consent of each Bank (or each Bank directly affected thereby, as applicable) is required with respect thereto, then the Borrower may, at its sole expense and effort, upon notice to such Bank and the Administrative Agent, require such Bank to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 11.9(b)), all of its interests, rights and obligations under this Agreement to an Eligible Assignee that shall assume such obligations (which assignee may be another Bank that is not a Defaulting Bank, if such Bank accepts such assignment); provided that:

(1) the Administrative Agent shall have received the assignment fee (if any) specified in Section 11.9(b);

(2) such Bank shall have received payment of an amount equal to the outstanding principal of its Advances, accrued interest thereon, accrued fees and all other amounts payable to it hereunder (including any amounts under Section 3.6(c)) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts);

(3) in the case of any such assignment resulting from a claim for compensation under Section 3.6(c) or payments required to be made pursuant to Section 3.10, such assignment will result in a reduction in such compensation or payments thereafter;

(4) such assignment does not conflict with applicable law; and

(5) in the case of any assignment pursuant to clause (d) of this Section 3.17, the applicable assignee shall have consented to the applicable amendment, waiver or consent.

A Bank shall not be required to make any such assignment or delegation if, prior thereto, as a result of the designation of a different lending office in accordance with Section 3.6(a) or Section 3.10(d) by the Bank, as applicable, a waiver by such Bank or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply.

## ARTICLE 4
## REPRESENTATIONS AND WARRANTIES

The Borrower represents and warrants to the Banks on the Effective Date, on the Closing Date and on each Funding Date, that:

4.1 **Existence and Qualification; Power; Compliance With Laws**.

(a) The Borrower is an organization duly formed, validly existing and in good standing under the Laws of the jurisdiction of its incorporation. The Borrower has all requisite corporate power and authority to execute and deliver each Loan Document to which it is a party and to perform its Obligations. The Borrower is duly qualified to transact business, and is in good standing, in any jurisdiction in which the conduct of its business or the ownership or leasing of its Properties makes such qualification or registration necessary, except where the failure so to qualify or register and to be in good standing would not constitute a Material Adverse Effect.

(b) The Borrower has all requisite corporate power and authority to conduct its business and to own and lease its Properties. The Borrower has obtained all authorizations, consents, approvals, orders, licenses and permits from, and has accomplished all filings, registrations and qualifications with, or obtained exemptions from any of the foregoing from, any Governmental Agency that are necessary for the transaction of its business, except where the failure so to comply, file, register, qualify or obtain exemptions does not constitute a Material Adverse Effect.

4.2 **Authority; Compliance With Other Agreements and Instruments and Government Regulations**. The execution, delivery and performance of the Loan Documents by the Borrower have been duly authorized by all necessary corporate action, and do not:

(a) Require any consent or approval not heretofore obtained of any partner, director, stockholder, security holder or creditor of the Borrower;

(b) Result in or require the creation or imposition of any Lien upon or with respect to any Property now owned or leased or hereafter acquired by the Borrower;

(c) Violate, to the best knowledge of the Borrower, any Requirement of Law applicable to the Borrower; or

(d) Result (or, with the giving of notice or passage of time or both, would result) in a breach of or default under, or cause or permit the acceleration of any obligation owed under any Contractual Obligation to which the Borrower is a party or by which the Borrower or any of its Property is bound or affected;

except where failure to receive such consent or approval or creation of such Lien or violation of, or default under, any such Requirement of Law or Contractual Obligation would not constitute a Material Adverse Effect.

4.3 **No Governmental Approvals Required**. No authorization, consent, approval, order, license or permit from, or filing, registration or qualification with, any Governmental Agency is required to authorize or permit under applicable Laws the execution, delivery and performance of the Loan Documents by the Borrower.

4.4 **Subsidiaries**. Schedule 4.4 hereto correctly sets forth as of December 31, 2021 the names of each Subsidiary of the Borrower that would constitute a Significant Subsidiary ("**Significant Subsidiary**") under Rule 1-02(w) of Regulation S-X as adopted by the Securities and Exchange Commission under the provisions of the Securities Act of 1933 and the Securities Exchange Act of 1934 as in force on the date of this Agreement.

4.5 **Financial Statements**. The Borrower has made available to the Banks the audited consolidated financial statements of the Borrower and its Consolidated Subsidiaries as of December 31, 2021. Such financial statements (including the footnotes thereto) fairly present in all material respects the consolidated financial condition and the consolidated results of operations of the Borrower as of such date and for such period in accordance with Generally Accepted Accounting Principles. Also, the Borrower has made available the unaudited condensed consolidated financial statements of the Borrower and its Consolidated Subsidiaries as of September 30, 2022 and for the nine months then ended (the "**interim financial statements**"). The interim financial statements (including the footnotes thereto) were prepared in accordance with applicable Securities and Exchange Commission regulations and include all adjustments (consisting of normal recurring accruals, unless otherwise indicated) the Borrower considers necessary for the fair presentation, in all material respects, of the results of operations for those periods.

4.6 **No Other Liabilities; No Material Adverse Effect**. As of the Effective Date, the Borrower and its Consolidated Subsidiaries do not have any material liability or material contingent liability not reflected or disclosed in the consolidated balance sheet or notes thereto described in Section 4.5, other than liabilities and contingent liabilities: (i) arising in the ordinary course of business subsequent to December 31, 2021, (ii) described in materials filed with or furnished to the Securities and Exchange Commission and available to the public, or (iii) set forth on Schedule 4.8. Except for matters described in documents filed with or furnished to Governmental Agencies and available to the public or in materials delivered to the Banks prior to the Effective Date, there has been no event or circumstance that constitutes, a Material Adverse Effect with respect to the Borrower and its Subsidiaries taken as a whole since December 31, 2021.

4.7 **Governmental Regulation**. The Borrower is not subject to regulation under the Investment Company Act of 1940.

4.8 **Litigation**. Except for (a) any matter fully covered (subject to applicable deductibles and retentions) by insurance for which the insurance carrier has assumed full responsibility, (b) matters described in documents filed with or furnished to Governmental Agencies and available to the public or in materials delivered to the Banks prior to the Effective Date, and (c) matters disclosed on Schedule 4.8 hereto, there are no actions, suits, proceedings or investigations pending as to which the Borrower or any of its Subsidiaries have been served or have received written notice or, to the best knowledge of the Borrower, threatened against or affecting the Borrower or any of its Subsidiaries or any Property of any of them before any Governmental Agency which could reasonably be expected to constitute a Material Adverse Effect.

4.9 **Binding Obligations**. (a) This Agreement has been duly executed and delivered by the Borrower and constitutes the legal, valid and binding obligation of the Borrower, enforceable against the Borrower in accordance with its terms and (b) each of the other Loan Documents will, when executed and delivered by the Borrower, constitute the legal, valid and binding obligation of the Borrower, enforceable against the Borrower in accordance with its terms, except (in each of case (a) and (b)), as enforcement may be limited by Debtor Relief Laws or equitable principles relating to the granting of specific performance and other equitable remedies as a matter of judicial discretion.

4.10 **No Default**. No event has occurred and is continuing that is a Default or Event of Default.

4.11 **Employee Benefit Plans**.

(a) The Borrower and, to the knowledge of the Borrower, each of its ERISA Affiliates are in compliance with all applicable provisions and requirements of ERISA and the regulations and published interpretations thereunder with respect to each Employee Benefit Plan, and have performed all of their obligations under each Employee Benefit Plan, except where the failure to be in such compliance or to perform such obligation would not constitute a Material Adverse Effect.

(b) No ERISA Event that would constitute a Material Adverse Effect has occurred or is reasonably expected to occur.

(c) Except as set forth on Schedule 4.11(c) and to the extent required under Section 4980B of the Code, no Employee Benefit Plan maintained by the Borrower or any of its Current ERISA Affiliates provides health or welfare benefits (through the purchase of insurance or otherwise) for any retired or former employees of the Borrower or any of its Current ERISA Affiliates.

(d) As of the most recent valuation date for any Pension Plan with respect to which the Borrower or a Subsidiary has any financial liability (including potential joint and several liability) in the event any such Pension Plan were to terminate, the "amount of unfunded benefit liabilities" (as defined in Section 4001(a)(18) of ERISA), individually or in the aggregate for all Pension Plans (excluding for purposes of such computation any Pension Plans with respect to which assets exceed benefit liabilities), does not exceed $60,000,000.

4.12 **Regulation U**. No part of the proceeds of any Advance hereunder will be used to purchase or carry, or to extend credit to others for the purpose of purchasing or carrying, any "margin stock" (as such term is defined in Regulation U) in violation of Regulation U. Neither the Borrower nor any of its Subsidiaries is engaged principally, or as one of its important activities, in the business of extending credit for the purpose of purchasing or carrying any such "margin stock."

4.13 **Disclosure**. All written information heretofore supplied by the Borrower to the Administrative Agent for the purposes of this Agreement (either directly or as documents filed with or furnished to Governmental Agencies and available to the public) is true and accurate in all material respects on the date as of which such information is stated. The Borrower has disclosed to the Administrative Agent (either directly or as documents filed with or furnished to Governmental Agencies and available to the public) all facts which could reasonably be expected to, in the good faith opinion of the Borrower, materially and adversely affect (to the extent the Borrower can reasonably foresee) the financial condition of the Borrower and its Subsidiaries, taken as a whole, or the ability of the Borrower to perform its obligations under this Agreement.

4.14 **Tax Liability**. Each of the Borrower and its Subsidiaries has filed or caused to be filed all tax returns which are required to have been filed by it, and has paid or caused to be paid, or made provision for the payment of, all taxes with respect to the periods, Property or transactions covered by said returns, or pursuant to any assessment received by the Borrower or any of its Subsidiaries, except (a) taxes for which the Borrower has been fully indemnified, (b) such taxes, if any, as are being contested in good faith by appropriate proceedings and as to which adequate reserves have been established and maintained or (c) where the failure to so file or pay would not reasonably be expected to have a Material Adverse Effect.

4.15 **Environmental Matters**. As of the Effective Date, except as set forth in the Borrower's annual report on Form 10-K for the year ended December 31, 2021 to the Securities and Exchange Commission, or as disclosed in Schedule 4.15 annexed hereto, (a) the Borrower and each Subsidiary have complied with all Environmental Laws, except to the extent that the failure to so comply would not be reasonably expected to result in a Material Adverse Effect, (b) the Borrower's and its Subsidiaries' facilities do not manage any hazardous wastes, hazardous substances, hazardous materials, toxic substances or toxic pollutants in any manner that would result in a violation of any Environmental Law, except for violations that would not be reasonably expected to result in a Material Adverse Effect and (c) the Borrower is aware of no events, conditions or circumstances involving environmental pollution or contamination or public or employee health or safety, in each case applicable to it or its Subsidiaries, that has resulted or would be reasonably expected to result in a Material Adverse Effect.

4.16 **Sanctions**. Neither the Borrower nor any of its Subsidiaries nor, to the knowledge of the Borrower, any director, officer, employee or agent of the Borrower or any of its Subsidiaries is (i) a Person whose name appears on the list of Specially Designated Nationals and Blocked Persons published by the Office of Foreign Assets Control of the U.S. Department of the Treasury ("**OFAC**"), the Consolidated List of Financial Sanctions Targets in the UK maintained by His Majesty's Treasury or the Consolidated List of Persons, Groups and Entities Subject to EU Financial Sanctions maintained by the European Union (a "**Sanctioned Person**"); (ii) a Person who is engaged in a transaction with any Person who is a Sanctioned Person; (iii) a department, agency or instrumentality of, or is otherwise owned or controlled by or acting on behalf of, directly or indirectly, (x) one or more Sanctioned Persons, or (y) the government of a country or territory that is the target of comprehensive economic sanctions administered by OFAC, the European Union or His Majesty's Treasury (as of the date of this Agreement, Iran, Cuba, Syria, North Korea, the Crimea, so-called Donetsk People's Republic, and so-called Luhansk People's Republic regions of Ukraine, and non-government controlled areas of the Kherson and Zaporizhzhia regions of Ukraine) (collectively, "**Sanctioned Countries**").

4.17 **Foreign Corrupt Practices Act**. The Borrower has implemented and maintains in effect policies and procedures reasonably designed to promote reasonable compliance by the Borrower, its Subsidiaries and their respective directors, officers and employees with the Foreign Corrupt Practices Act of 1977 (the "**FCPA**"), and is in compliance with the FCPA in all material respects.

4.18 **EEA Financial Institution**. The Borrower is not an EEA Financial Institution.

4.19 **Beneficial Ownership Certification**. In respect of the Borrower that is a "legal entity customer" under the Beneficial Ownership Regulation, the information included in the Beneficial Ownership Certification delivered in respect of the Borrower, as of the date such Beneficial Ownership Certification is delivered, is true and correct in all respects.

4.20 **Use of Proceeds**. The proceeds of the Advances will be used in accordance with Section 5.8.

4.21 **Target Acquisition**.

(a) As of the Closing Date, (a) the release of the Scheme Press Announcement (if the Target Acquisition is consummated by way of a Scheme), and the posting of the Scheme Circular (if the Target Acquisition is consummated by way of a Scheme) or the Takeover Offer Document (if the Target Acquisition is consummated by way of a Takeover Offer), as applicable, has been duly authorized or ratified by the Borrower and Bidco (as applicable) and (b) each of the obligations of the Borrower and Bidco

under the Takeover Offer Document or Scheme Circular (as applicable) constitutes the legal, valid and binding obligation of the Borrower and Bidco (as applicable), except as enforcement may be limited by Debtor Relief Laws or equitable principles relating to the granting of specific performance and other equitable remedies as a matter of judicial discretion.

(b) As of the Closing Date, (A) if the Target Acquisition is consummated by way of a Scheme, (i) to the best of the knowledge and belief of the directors of the Borrower and/or Bidco (having taken all reasonable care to ensure that such is the case) the information contained in the Scheme Documents for which the directors of the Borrower and/or Bidco take responsibility under the Irish Takeover Code is in accordance with the facts and, where appropriate, does not omit anything likely to affect the import of such information, and (ii) the Scheme Documents, taken as a whole, contain all the material terms of the Scheme and (B) if the Target Acquisition is consummated by way of a Takeover Offer, (i) to the best of the knowledge and belief of the directors of the Borrower and/or Bidco (having taken all reasonable care to ensure that such is the case) the information contained in the Offer Documents for which the directors of the Borrower and/or Bidco take responsibility under the Irish Takeover Code is in accordance with the facts and, where appropriate, does not omit anything likely to affect the import of such information, and (ii) the Offer Documents taken as a whole, contain all the material terms of the Takeover Offer.

## ARTICLE 5
## Affirmative Covenants
## (Other than Information and Reporting Requirements)

So long as any Advance remains unpaid, or any other Obligation (other than indemnity obligations for which no claim has been made) remains unpaid or unperformed, or any portion of the Commitments remains in force, the Borrower shall, and shall cause each of its Subsidiaries to, unless the Administrative Agent (acting with the approval of the Majority Banks) otherwise consents in writing:

5.1 **Payment of Taxes and Other Potential Liens**. Pay and discharge promptly all taxes, assessments and governmental charges or levies imposed upon any of them, upon their respective Property or any part thereof, or upon their respective income or profits or any part thereof, except that the Borrower and its Subsidiaries shall not be required to pay or cause to be paid any tax, assessment, charge or levy (a) that is not yet past due, or is being contested in good faith by appropriate proceedings, so long as the relevant entity has established and maintains adequate reserves for the payment of the same and by reason of such nonpayment and contest no material item or portion of Property of the Borrower and its Subsidiaries, taken as a whole, is in jeopardy of being seized, levied upon or forfeited or (b) the nonpayment of which in the aggregate could not reasonably be expected to have a Material Adverse Effect.

5.2 **Preservation of Existence**. Preserve and maintain their respective (a) existences in the jurisdiction of their formation and (b) all authorizations, rights, franchises, privileges, consents, approvals, orders, licenses, permits, or registrations from any Governmental Agency that are necessary for the transaction of their respective business, and qualify and remain qualified to transact business in each jurisdiction in which such qualification is necessary in view of their respective business or the ownership or leasing of their respective Properties except where the failure to maintain such preservation or maintenance of existence, authorizations, rights, franchises, privileges, consents, approvals, orders, licenses, permits or registration or to do so qualify would not constitute a Material Adverse Effect and; provided that a merger permitted under Section 6.2 shall not constitute a violation of this covenant. Nothing herein contained

shall prevent the termination of the business or corporate existence of any Subsidiary (other than a Borrower) that, in the judgment of the Borrower, is no longer necessary or desirable, as long as immediately after giving effect to any such transaction, no Default shall have occurred and be continuing.

5.3 **Maintenance of Properties**. Maintain, preserve and protect all of their respective depreciable Properties in good order and condition, subject to wear and tear in the ordinary course of business, and not permit any waste of their respective Properties, except that any failure to so maintain, preserve or protect such Properties that does not constitute a Material Adverse Effect shall not constitute a violation of this covenant.

5.4 **Maintenance of Insurance**. Maintain liability, casualty and other insurance (subject to customary deductibles and retentions), with responsible insurance companies in such amounts and against such risks as is carried by responsible companies engaged in similar businesses and owning similar assets in the general areas in which the Borrower and its Subsidiaries operate; provided that, notwithstanding the foregoing, the Borrower may self-insure if reasonable and consistent with sound business practice.

5.5 **Compliance With Laws**. Comply with all Requirements of Law noncompliance with which constitutes a Material Adverse Effect, except that the Borrower and its Subsidiaries need not comply with a Requirement of Law then being contested by any of them in good faith by appropriate proceedings.

5.6 **Visitation**. Upon reasonable notice permit the Administrative Agent or representatives of any Bank at the Administrative Agent's or such Bank's expense to visit any of its major properties, during normal business hours, to inspect and make abstracts from its financial and accounting records (other than materials protected by the attorney-client privilege and materials which are proprietary in nature or which may not be disclosed without violation of a binding confidentiality obligation), and to discuss its affairs and finances with its officers and independent public accountants, all at such reasonable times and as often as may reasonably be requested; provided that so long as no Default or Event of Default has occurred and is continuing, visitation by representatives of the Banks shall be limited to not more than one visit in any calendar year for each Bank.

5.7 **Keeping of Records and Books of Account**. Keep adequate records and books of account reflecting all financial transactions in conformity with Generally Accepted Accounting Principles, and in material conformity with all applicable requirements of any Governmental Agency having regulatory jurisdiction over the Borrower or any of its Subsidiaries.

5.8 **Use of Proceeds**. Use the proceeds of Advances only for Certain Funds Purposes.

5.9 **Scheme Undertakings**. From the Effective Date to the Closing Date, or, if earlier, until the Borrower has elected to switch to a Takeover Offer pursuant to Section 3.6 of the Transaction Agreement:

(i) Terms of the Scheme. The Borrower will ensure that (A) any variation of the terms and conditions of either the Transaction Agreement or the Scheme Circular from the terms and conditions of the Agreed Form of Scheme Press Announcement (or Transaction Agreement) delivered to the Administrative Agent on the Effective Date and (B) any amendment or waiver of any terms and conditions in the Scheme or any Scheme Document or the Transaction Agreement shall not, in each case of clauses (A) and (B), be materially adverse to the interests of the Banks in their capacities as such, taken as a whole, unless

the Administrative Agent (but not any Bank) has approved such variation, amendment or waiver in writing (which approval may be in the form of an email confirmation from the Administrative Agent (or its counsel on its behalf) and shall not be unreasonably withheld, delayed or conditioned) or such variations, amendments or waivers are required by the Takeover Panel, the Takeover Rules, the Securities and Exchange Commission or the High Court or under any applicable law or regulation; provided that the Borrower shall not increase the cash consideration for the Target Shares pursuant to the Scheme from the cash consideration set forth in the Transaction Agreement as in effect on the Effective Date; except that (x) an increase of cash consideration by less than 10% shall be permitted (and any increase in the cash consideration for the Target Shares by 10% or more shall require the consent of the Administrative Agent (but not any Bank)), (y) any increase in cash consideration is permitted to the extent such increase is funded entirely (directly or indirectly) by the subscription for Equity Interests in the Borrower, or by the incurrence of any Indebtedness that would not constitute a Debt Issuance, or cash on hand at the Borrower or any member of the Consolidated Group and any increase in any non-cash consideration shall be deemed not to be adverse to the interests of the Banks, and (z) any extension to the End Date (as defined in the Transaction Agreement) to a date falling not later than the Long Stop Date shall be deemed not to be adverse to the interests of the Banks.

(ii) Dispatch of Scheme Circular. The Borrower will use reasonable endeavors to procure that the Scheme Circular is dispatched to the holders of the Target Shares as soon as reasonably practicable after approval by the Takeover Panel (to the extent such approval is required) and the High Court and after the Borrower is satisfied that it has obtained all confirmations necessary or desirable from the Securities and Exchange Commission.

(iii) Progress of Scheme. The Borrower will use commercially reasonable efforts to keep the Administrative Agent reasonably informed as to any material developments in relation to the Scheme and promptly on request provide the Administrative Agent with material information as to the progress of the Scheme and with any material information (subject to applicable legal and regulatory restrictions on disclosure thereof) in relation to the Scheme and will notify the Administrative Agent promptly following it becoming aware that the Court Order has been issued.

(iv) Implementation of the Scheme. The Borrower shall, and shall procure that Bidco shall:

(A) not take any action (and procure, so far as it is legally able to do so, that no person, acting in concert with it takes any action) which would compel it (or any person acting in concert with it) to make a mandatory offer to shareholders of the Target under Rule 9 of the Takeover Rules;

(B) comply in all material respects with their obligations under the Scheme and the Scheme Documents (in each case subject to (i) waivers granted by or requirements of the Takeover Panel or the requirements of the High Court and (ii) all relevant authorizations, laws and regulations and the requirements, rules and regulations of all applicable regulatory authorities and bodies relating to the Target Acquisition); and

(C) comply in all material respects with their obligations under the Irish Companies Act and the Takeover Rules, subject to any applicable waivers by the Takeover Panel (in each case subject to (i) waivers granted by or requirements of the Takeover Panel or the requirements of the High Court and (ii) all relevant authorizations, laws and regulations and the requirements, rules and regulations of all applicable regulatory authorities and bodies relating to the Target Acquisition).

5.10 **Takeover Undertakings**. At any time after the Borrower has elected to convert the Scheme to a Takeover Offer pursuant to Section 3.6 of the Transaction Agreement, which election shall be notified as soon as reasonably practicable to the Administrative Agent by a written notice ("**Offer Conversion Notice**"):

(i) Terms of the Takeover Offer Document: The Borrower will ensure that (A) any variation of the terms and conditions of either the Transaction Agreement or the Takeover Offer Document from the terms and conditions of the Agreed Form of Scheme Press Announcement (or Transaction Agreement) delivered to the Administrative Agent on the Effective Date and (B) any amendment or waiver of any terms and conditions in the Takeover Offer or the Takeover Offer Document or the Transaction Agreement shall not, in each case of clauses (A) and (B), be materially adverse to the interests of the Banks in their capacities as such, taken as a whole, unless the Administrative Agent (but not any Bank) has approved such variation, amendment or waiver in writing (which approval may be in the form of an email confirmation from the Administrative Agent (or its counsel on its behalf) and shall not be unreasonably withheld, delayed or conditioned) or such variations, amendments or waivers are required by the Takeover Panel, the Takeover Rules, the Securities and Exchange Commission or the High Court or under any applicable law or regulation; provided that (1) the Borrower shall not increase the cash consideration for the Target Shares in a Takeover Offer from the cash consideration set forth in the Transaction Agreement as in effect on the Effective Date; except that (x) an increase of cash consideration for the Target Shares in a Takeover Offer by less than 10% shall be permitted (and any increase in the cash consideration for the Target Shares in a Takeover Offer by 10% or more shall require the consent of the Administrative Agent (but not any Bank)), (y) any increase in cash consideration in a Takeover Offer shall be permitted to the extent such increase is funded entirely (directly or indirectly) by the subscription for Equity Interests in the Borrower, or by the incurrence of any Indebtedness that would not constitute a Debt Issuance or cash on hand at the Borrower or any member of the Consolidated Group and any increase in any non-cash consideration or any decrease in the cash consideration in a Takeover Offer shall be deemed not to be adverse to the interests of the Banks to the extent, in the case of any decrease, that any such reduction in the cash consideration shall have been allocated to a reduction of the commitments under the Bridge Facility, and (z) any extension to the End Date (as defined in the Transaction Agreement) to a date falling not later than the Long Stop Date shall be deemed not to be adverse to the interests of the Banks and (2) any change to the Takeover Offer that would reduce the minimum acceptance level of Target Shares to which the Takeover Offer relates to less than 80% shall be deemed materially adverse to the interests of the Banks and the Administrative Agent.

(ii) Issue of the Takeover Offer Document: The Borrower shall use commercially reasonable efforts to dispatch the Takeover Offer Document as soon as reasonably practicable after approval by the Takeover Panel (to the extent such approval is required) and after the Borrower is satisfied that it has obtained all confirmations necessary or desirable from the Securities and Exchange Commission.

(iii) Progress of the Takeover Offer: The Borrower shall keep the Administrative Agent reasonably informed as to the progress of the Takeover Offer and any market purchases of Target Shares made, and provide the Administrative Agent with such material information (subject to applicable legal and regulatory restrictions on disclosure thereof) in respect of the Takeover Offer as the Administrative Agent may reasonably request.

(iv) Implementation of the Takeover Offer: The Borrower shall, and shall procure that Bidco shall:

(A) not take any action (and procure, so far as it is legally able to do so, that no person acting in concert with it takes any action) which would compel it to make a mandatory offer to the holders of the Target Shares under Rule 9 of the Takeover Rules;

(B) comply in all material respects with their obligations under the Takeover Offer and the Takeover Offer Document (in each case subject to (i) waivers granted by or requirements of the Takeover Panel and (ii) all relevant authorizations, laws and regulations and the requirements, rules and regulations of all applicable regulatory authorities and bodies relating to the Target Acquisition);

(C) comply in all material respects with their obligations under the Irish Companies Act and the Takeover Rules, subject to any applicable waivers by the Takeover Panel (in each case subject to (i) waivers granted by or requirements of the Takeover Panel and (ii) all relevant authorizations, laws and regulations and the requirements, rules and regulations of all applicable regulatory authorities and bodies relating to the Target Acquisition);

(D) not declare the Takeover Offer unconditional unless (i) it has achieved an acceptance level of at least 80% of each class of Target Shares to which the Takeover Offer relates and (ii) the Borrower has become entitled under the Squeeze Out Procedures to issue a Squeeze Out Notice; and

(E) not (unless the Unconditional Date shall have occurred) extend the Takeover Offer beyond 81 days from the date on which the Takeover Offer Document are published, unless required to do so by the Takeover Rules, the Takeover Panel, any applicable law or regulation, any applicable stock exchange or any applicable governmental or other regulatory authority.

5.11 **Completion of Purchase of Remaining Shares in the Target**. Within 14 days of the date on which the Borrower or Bidco (as applicable) has (i) by virtue of the Takeover Offer acquired, or unconditionally contracted to acquire, not less than 80% in value of the Target Shares and (ii) become entitled under the Squeeze Out Procedures to issue a Squeeze Out Notice, the Borrower shall, or shall procure that Bidco shall:

(a) give notice to all the remaining holders of the Target Shares that it intends to acquire their shares pursuant to the Squeeze Out Procedures;

(b) subsequently purchase such shares as soon as reasonably possible; and

(c) comply with the provisions of the Squeeze Out Procedures in all material respects.

5.12 **Take Private Procedure**. To the extent the Target Acquisition is consummated by way of a Scheme, the Borrower shall, or shall procure that Bidco shall, submit all required documents to the Registrar to procure the re-registration of the Target as a private company pursuant to Part 20 of the Irish Companies Act within 30 days after the Closing Date (or such longer period reasonably acceptable to the Administrative Agent). To the extent the Target Acquisition is consummated by way of a Takeover Offer, the Borrower shall, or shall procure that Bidco shall, submit all required documents to the Registrar to procure the re-registration of the Target as a private company pursuant to Part 20 of the Irish Companies Act within 30 days after it has acquired all shares of the Target (or such longer period reasonably acceptable to the Administrative Agent).

## ARTICLE 6
## Negative Covenants

So long as any Advance remains unpaid, or any other Obligation (other than indemnity obligations for which no claim has been made) remains unpaid or unperformed, or any portion of the Commitments remains in force, the Borrower shall not, and shall not permit any of its Subsidiaries to, unless the Administrative Agent (acting with the approval of the Majority Banks) otherwise consents in writing:

6.1 **Change in Nature of Business**. Make any material change in the nature of the business of the Borrower and its Subsidiaries, taken as a whole, as at present conducted.

6.2 **Mergers**. Merge, consolidate or amalgamate with or into any Person, or convey substantially all of its Properties and assets to another Person, unless each of the following conditions are met:

(a) no Default or Event of Default exists or would exist immediately following the consummation of such merger, consolidation, amalgamation or conveyance;

(b) in a merger, consolidation or amalgamation of the Borrower with another Person or Persons, the Borrower is the surviving entity; and

(c) in the case of a conveyance of Properties and assets, the Properties and assets conveyed do not consist of substantially all of the Properties and assets of the Borrower and its Subsidiaries taken as a whole.

6.3 **Liens; Sales and Leasebacks**. Create, incur, assume or suffer to exist any Lien of any nature upon or with respect to any of their respective Properties, whether now owned or hereafter acquired, or engage in any sale and leaseback transaction with respect to its Property, except:

(a) Permitted Encumbrances;

(b) Liens in favor of the Administrative Agent or the Banks under the Loan Documents;

(c) Liens existing on the date hereof and listed on Schedule 6.3 and Liens on the same Property which secure Indebtedness or obligations which replaces or refinances the Indebtedness (or commitment) or obligations originally secured by those Liens; provided that the Indebtedness or obligations secured thereby are not increased;

(d) pre-existing Liens on assets acquired by the Borrower or any of its Subsidiaries after the Effective Date; and

(e) additional Liens securing Indebtedness or obligations (including sale and leaseback transactions to which the Borrower or any Subsidiary is a party as vendor and lessee), the outstanding amount of which Indebtedness or obligation together with Indebtedness of the Borrower's Subsidiaries permitted under Section 6.5, does not in the aggregate exceed 35% of Consolidated Net Worth (measured as of the last day of the most recently ended Fiscal Quarter).

6.4 **Transactions with Affiliates**. Enter into any transaction of any kind which is material to the Borrower and its Subsidiaries taken as a whole with any Affiliate of the Borrower other than (a) transactions between or among the Borrower and its Subsidiaries or between or among its Subsidiaries; provided that, for the purposes of this Section 6.4 the term "Subsidiary" shall include any partnership and joint venture that is excluded from the definition of the term "Subsidiary" but as to which the Borrower or Subsidiary owns 50% or more of the ownership interests, (b) transactions on terms at least as favorable to the Borrower or its Subsidiaries as would be the case in an arm's-length transaction between unrelated parties of equal bargaining power, and (c) transactions approved by a majority of the disinterested members of the Board of Directors of Borrower or the applicable Subsidiary.

6.5 **Subsidiary Indebtedness**. Permit Indebtedness of the Borrower's Subsidiaries (other than under this Agreement) at any time that, when aggregated (without duplication) with Indebtedness permitted to be secured by Liens in accordance with Section 6.3(e), exceeds 35% of Consolidated Net Worth (measured as of the last day of the most recently ended Fiscal Quarter).

6.6 **Financial Covenant**. Permit the Consolidated Interest Coverage Ratio as of the end of any Fiscal Quarter ended on or after the Initial Funding Date to be less than 3.50 to 1.00.

6.7 **Use of Proceeds**.

(a) Use the proceeds of any Advance for the purpose of funding any activity or business in any Sanctioned Countries or for the purpose of funding any prohibited activity or business of any Person located, organized or residing in any Sanctioned Country or who is a Sanctioned Person or, to the Borrower's knowledge, any person owned by or controlled by, or acting for or on behalf of a Sanctioned Person, in any case, absent valid and effective licenses and permits issued by the relevant government sanctioning authorities described in Section 4.16 (collectively, the "**Sanctioning Authorities**") or otherwise in accordance with applicable laws, or in any other manner that will result in any violation by any Bank or the Agent of the sanctions administered or enforced by the Sanctioning Authorities; nor

(b) Use the proceeds of any Advance for the purpose of funding an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person, in violation of the FCPA (as defined in Section 4.17).

## ARTICLE 7
## Information and Reporting Requirements

7.1 **Financial and Business Information**. So long as any Advance remains unpaid, or any other Obligation (other than indemnity obligations for which no claim has been made) remains unpaid or unperformed, or any portion of the Commitments remains in force, the Borrower shall, unless the Administrative Agent (with the approval of the Majority Banks) otherwise consents in writing, deliver to the Banks and the Administrative Agent, at the Borrower's sole expense:

(a) As soon as practicable, and in any event within 45 days after the end of each Fiscal Quarter (other than the fourth Fiscal Quarter in any Fiscal Year), (i) the consolidated balance sheets of the Borrower and its Subsidiaries as at the end of such Fiscal Quarter, (ii) consolidated statements of income and (iii) consolidated statements of cash flow, in each case described in clauses (ii) and (iii) of this Section 7.1(a) of the Borrower and its Subsidiaries for such Fiscal Quarter and for the portion of the Fiscal Year ended with such Fiscal Quarter, all in reasonable detail. Such financial statements shall be certified by a Senior Officer of the Borrower as fairly presenting the financial condition, results of operations and changes in financial position of the Borrower and its Subsidiaries in accordance with Generally Accepted Accounting Principles (other than any requirement for footnote disclosures), as at such date and for such periods, subject only to normal year-end accruals and audit adjustments;

(b) As soon as practicable, and in any event within 90 days after the end of each Fiscal Year, (i) the consolidated balance sheets of the Borrower and its Subsidiaries as at the end of such Fiscal Year, (ii) consolidated statements of income of the Borrower and its Subsidiaries for such Fiscal Year and (iii) consolidated statements of cash flow of the Borrower and its Subsidiaries for such Fiscal Year, all in reasonable detail. Such financial statements shall be prepared in accordance with Generally Accepted Accounting Principles, and such consolidated balance sheet and consolidated statements shall be accompanied by a report and opinion of Ernst & Young or other independent public accountants of recognized national standing selected by the Borrower, which report and opinion shall be prepared in accordance with generally accepted auditing standards as at such date;

(c) Promptly after the same are available, copies of each annual report, proxy or financial statement or other report or communication sent to the shareholders of the Borrower generally, and copies of all annual, regular, periodic, current and special reports and registration statements which the Borrower or a Subsidiary of the Borrower may file or be required to file under Sections 13 or 15(d) of the Securities Exchange Act of 1934;

(d) Promptly, and in any event within five (5) Banking Days after a Senior Officer of the Borrower obtains actual knowledge of the existence of any condition or event which constitutes a Default or Event of Default, written notice specifying the nature and period of existence thereof and specifying what action the Borrower or any of its Subsidiaries is taking or proposes to take with respect thereto;

(e) Promptly upon becoming aware of the occurrence of any ERISA Event defined in clauses (i) through (vii) or (xi) of the definition thereof involving Title IV of ERISA that could reasonably be expected to result in material liability to the Borrower or its Subsidiaries or any ERISA Event that could reasonably be expected to result in a Material Adverse Effect, a written notice specifying the nature thereof, what action the Borrower or any of its ERISA Affiliates has taken, is taking or proposes to take with respect thereto and, when known, any action taken or threatened by the Internal Revenue Service, the Department of Labor or the PBGC with respect thereto;

(f) With reasonable promptness, copies of (a) each Schedule SB (Actuarial Information) to the annual report, if any (Form 5500 Series), filed by the Borrower or any of its Current ERISA Affiliates with the Internal Revenue Service with respect to each Pension Plan following the Administrative Agent's request; (b) all notices received by the Borrower or any of its Current ERISA Affiliates from the sponsor of a Multiemployer Plan concerning an ERISA Event defined in clauses (i) through (vii) or (xi) of the definition thereof following the receipt thereof; and (c) such other documents or governmental reports or filings relating to any Employee Benefit Plan as the Administrative Agent shall reasonably request;

(g) promptly following any reasonable request therefor, provide information and documentation reasonably requested by the Administrative Agent or any Bank for purposes of compliance with applicable "know your customer" and anti-money-laundering rules and regulations, including, without limitation, the Patriot Act and the Beneficial Ownership Regulation; and

(h) Such other material information related to the Borrower's ability to meet its Obligations hereunder as from time to time may be reasonably requested by the Administrative Agent or the Majority Banks.

Documents required to be delivered pursuant to Section 7.1 (to the extent any such documents are included in materials otherwise filed with or furnished to the Securities and Exchange Commission and available to the public may be delivered electronically and if so delivered), shall be deemed to have been delivered for all purposes of this Agreement on the date (i) on which the Borrower posts such documents, or provides a link thereto on the Borrower's website on the Internet at the website address listed on Schedule 13.7; or (ii) on which such documents are posted on the Borrower's behalf on IntraLinks/IntraAgency or another relevant website (including, without limitation, the EDGAR System), if any, to which each Bank 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 obligation to request the delivery or to maintain copies of the documents referred to above, and in any event shall have no responsibility to monitor compliance by the Borrower with any such request for delivery, and each Bank shall be solely responsible for requesting delivery to it or maintaining its copies of such documents.

7.2 **Compliance Certificates**. So long as any Advance remains unpaid, or any other Obligation (other than indemnity obligations for which no claim has been made) remains unpaid or unperformed, or any portion of the Commitments remains outstanding, the Borrower shall, unless the Majority Banks otherwise consent, deliver to the Administrative Agent, at the Borrower's sole expense, concurrently with the financial statements required pursuant to Sections 7.1(a) and 7.1(b), a Compliance Certificate signed by a Senior Officer of the Borrower, including calculations as set forth therein.

## ARTICLE 8
## Conditions

8.1 **Conditions to Effectiveness**. This Agreement shall be effective on the first date (the "**Effective Date**") on which each of the following conditions precedent (unless the Administrative Agent, acting at the direction of the Banks, otherwise consents in writing) shall have been satisfied:

(a) The Administrative Agent shall have received all of the following, each of which shall be originals unless otherwise specified, each in form and substance satisfactory to the Administrative Agent and the Banks:

(1) executed counterparts of this Agreement and the Fee Letter;

(2) a certified copy of the Certificate of Incorporation of the Borrower, together with a good standing certificate from the Secretary of State of the State of incorporation of the Borrower and, to the extent generally available, a certificate or other evidence of good standing as to payment of any applicable franchise or similar taxes from the appropriate taxing authority of such state, each dated a recent date on or prior to the Effective Date;

(3) copies of the Borrower's Bylaws, certified as of a recent date on or prior to the Effective Date by the corporate secretary or an assistant secretary of the Borrower;

(4) resolutions of the Board of Directors of the Borrower approving and authorizing the execution, delivery and performance of this Agreement and the other Loan Documents to which the Borrower is a party, certified as of a recent date on or prior to the Effective Date by the corporate secretary or an assistant secretary of the Borrower as being in full force and effect without modification or amendment;

(5) signature and incumbency certificates of the officers of the Borrower executing this Agreement and the other Loan Documents;

(6) the favorable written opinion of Sullivan & Cromwell LLP, counsel to the Borrower; and

(7) a Certificate of a Senior Officer of the Borrower certifying that the conditions specified in Sections 8.1(b), 8.1(c), and 8.1(d) have been satisfied.

(b) As of the Effective Date, the representations and warranties of the Borrower contained in Article 4 (other than Sections 4.20 and 4.21) shall be true and correct.

(c) No Default shall have occurred and would be continuing on the Effective Date.

(d) A Senior Officer of the Borrower shall have certified to the Administrative Agent in a Certificate that the Borrower will pay, during ordinary business hours in Los Angeles on the Effective Date, to the Arrangers and the Administrative Agent the fees payable on the Effective Date referred to in Section 3.4 and the fees, costs and expenses referred to in Section 11.3 to the extent invoiced (if applicable) by the relevant person at least one day prior to the Effective Date.

(e) The Administrative Agent shall have a copy, certified by the Borrower and signed by a Senior Officer of the Borrower as true and complete, of (i) the Agreed Form of Scheme Press Announcement and (ii) the executed Transaction Agreement.

(f) The Administrative Agent shall have received, so long as requested no less than 4 Banking Days prior to the Effective Date, all documentation and other information required by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including the Patriot Act, in each case relating to the Borrower.

The Administrative Agent shall notify the Borrower and the Banks of the Effective Date in writing promptly upon such conditions precedent being satisfied, and such notice shall be conclusive and binding.

8.2 **Conditions Precedent to Each Funding Date**. Subject to Sections 2.2 and 2.3, the obligation of each Bank to make an Advance on any Funding Date is subject to the receipt or satisfaction (or waiver in accordance with Section 11.2), as applicable, of the following conditions:

(a) The Effective Date shall have occurred.

(b) As of the Closing Date, if the Target Acquisition is effected by way of a Scheme, the Administrative Agent shall have received:

(i) a Certificate of a Senior Officer of the Borrower certifying:

(A) the date on which the Scheme Circular was posted to the shareholders of the Target;

(B) the date on which the Scheme Press Announcement was issued; and

(C) the date on which the High Court has sanctioned the Scheme;

(ii) a copy of the Scheme Circular, certified by a Senior Officer of the Borrower as a correct and complete copy; and

(iii) a copy of the Scheme Press Announcement, certified by a Senior Officer of the Borrower as a correct and complete copy.

(c) As of the Closing Date, if the Target Acquisition is effected by way of a Takeover Offer, the Administrative Agent shall have received:

(i) a Certificate of a Senior Officer of the Borrower certifying:

(A) the date on which the Takeover Offer Document was posted to the holders of the Target Shares;

(B) the date on which the Offer Press Announcement was issued; and

(C) the date on which the Takeover Offer became or was declared to be wholly unconditional;

(ii) a copy of the Takeover Offer Document, certified by a Senior Officer of the Borrower as a correct and complete copy; and

(iii) a copy of the Offer Press Announcement, certified by a Senior Officer of the Borrower as a correct and complete copy.

(d) On each Funding Date (A) (x) no Certain Funds Default is continuing and (y) the Certain Funds Representations are true and correct (or, if a Certain Funds Representation does not include a materiality concept, true and correct in all material respects) as of such date and (B) the Administrative Agent shall have received a certificate of the Borrower signed by a Senior Officer certifying as to the satisfaction of the condition set forth in the foregoing clause (A).

(e) Where (i)(A) the Target Acquisition is effected by way of a Scheme, the Target Acquisition shall have been, or substantially concurrently with the occurrence of the Initial Funding Date shall be consummated in all material respects in accordance with the terms and conditions of both the Transaction Agreement and the Scheme Documents (it being understood that substantially concurrently shall permit the payment of cash component of the Scheme Consideration being made within 14 days after the Scheme Effective Date) without giving effect to any amendment to the Scheme Documents or waiver thereof (except as permitted by Section 5.9(i)) and (B) the Administrative Agent shall have received a certificate of the Borrower signed by a Senior Officer certifying (1) as to the satisfaction of the condition set forth in the preceding clause (i)(A) and (2) attaching a copy of the Court Order, a copy of the Required EGM Resolutions, certified as a true and correct copy received from Target or (ii)(A) the Target Acquisition is effected by way of a Takeover Offer, the Takeover Offer has been, or substantially concurrently with the occurrence of the Initial Funding Date shall be consummated in all material respects in accordance with the terms and conditions of the Transaction Agreement and the Takeover Offer Document and shall have become unconditional in all respects in accordance with the terms of the Transaction Agreement and the Takeover Offer Document (it being understood that substantially concurrently shall permit the payment of cash consideration for the tendered Target Shares being made within 14 days of the Unconditional Date) without giving effect to any amendment to the Takeover Offer Document or waiver thereof (except as permitted by Section 5.10(i)) and (B) the Administrative Agent shall have received a certificate of the Borrower signed by a Senior Officer certifying as to the satisfaction of the condition set forth in the preceding clause (ii)(A).

(f) The Administrative Agent shall have received a Request for Loan in accordance with Section 2.2 or 2.3.

(g) All fees then due and payable by the Borrower to the Administrative Agent, the Arrangers and the Banks under the Loan Documents or pursuant to the Fee Letter shall be paid (either in advance of the Closing Date or out of the proceeds of the Advance on such Funding Date, at the Borrower's option) to the extent invoiced (if applicable) by the relevant person at least three Banking Days prior to the Closing Date.

(h) As of each Funding Date, as applicable, solely with respect to the applicable Bank (without affecting the condition to any other Bank's funding obligation hereunder), there shall not be in effect any applicable law or order in any jurisdiction of competent authority that permanently enjoins, prevents or prohibits the performance of its funding obligation under Section 2.1 (and the Bank agrees that as soon as reasonably practicable following becoming aware that any such event is pending or threatened, it shall notify the Borrower and as soon as reasonably practicable consult with the Borrower about possible mitigants, as well as use commercially reasonable efforts to assign (prior to the expiry of the Certain Funds Period, with the prior written consent of the Borrower, not to be unreasonably withheld or delayed) its Commitments to an Affiliate of such Bank that is not subject to such enjoinment, prevention or prohibition (to the extent not, in such Bank's good faith judgment, otherwise disadvantageous to such Bank), and provided that such Bank shall, within 1 Banking Days' notice from the Borrower, and subject to any applicable "know your customer" requirements, transfer its Commitment to any bank designated by the Borrower at par, together with fees accrued up to the date of such transfer but at no other cost or expense to the Borrower, and with no entitlement to any fees that may be payable under the Loan Documents at any time after the date of such transfer).

The Administrative Agent shall notify the Borrower and the Banks as soon as practicable upon the satisfaction of the further conditions precedent in this Section 8.2, and such notice shall be conclusive and binding.

8.3 **Actions by Banks During the Certain Funds Period**. During the Certain Funds Period and notwithstanding (i) any provision to the contrary in the Loan Documents or (ii) that any condition set out in Section 8.1 may subsequently be determined to not have been satisfied or any representation or warranty given on the Effective Date was incorrect in any respect, none of the Banks nor the Agents shall, unless a Certain Funds Default has occurred and is continuing (neither remedied nor waived), be entitled to:

(a) cancel any of its Commitments (subject to any Commitment reductions made pursuant to Section 2.7);

(b) (x) rescind, terminate, claim invalidity of or cancel the Loan Documents or the Commitments (subject to any Commitment reductions made pursuant to Section 2.7), (y) exercise any similar right or remedy or (z) make or enforce any claim under the Loan Documents it may have to the extent, in this clause (z), to do so would prevent, delay, limit or adversely impact the making of an Advance for Certain Funds Purposes;

(c) refuse to participate in the making of an Advance for Certain Funds Purposes unless the applicable conditions set forth in Section 8.2 have not been satisfied (or waived by the Majority Banks) as of the applicable date;

(d) exercise any right of set-off or counterclaim in respect of an Advance to the extent to do so would prevent, delay, limit or adversely impact the making of an Advance for Certain Funds Purposes; or

(e) cancel, accelerate or cause repayment or prepayment of any amounts owing under any Loan Document;

provided that immediately upon the expiry of the Certain Funds Period, but subject to any limitations set forth herein, including with respect to the Borrower's remedies prior to the Clean-up Date, all such rights, remedies and entitlements shall be available to the Banks and the Agents notwithstanding that they may not have been used or been available for use during the Certain Funds Period.

## ARTICLE 9
## Events of Default and Remedies upon Event of Default

9.1 **Events of Default**. The existence or occurrence of any one or more of the following events, whatever the reason therefor and under any circumstances whatsoever, shall constitute an "**Event of Default**":

(a) The Borrower fails to pay any principal of any of the Loans, or any portion thereof, on the date when due; or

(b) The Borrower (i) fails to pay any interest on any of the Loans, or any portion thereof, or (ii) fails to pay any other fee or amount payable to the Administrative Agent, the Banks under any Loan Document, or any portion thereof, in each case within five (5) Banking Days after demand therefor; or

(c) Any failure to comply with Section 7.1(d); or

(d) The Borrower fails to perform or observe any other covenant or agreement contained in any Loan Document on its part to be performed or observed within thirty (30) days after the giving of notice by the Administrative Agent or the Majority Banks of such Default; provided, however, that (x) any failure to observe any of the covenants contained in Sections 5.2 (as it relates to the Borrower's existence) and 6.2 shall constitute an immediate Event of Default hereunder and (y) any failure to observe any of the covenants contained in Section 5.9, 5.10, 5.11 or 5.12 shall constitute an Event of Default upon a written notice in respect thereof on or prior to the Closing Date from the Administrative Agent to the Borrower; provided, further, that any failure to observe any of the covenants contained in Section 6.3 shall constitute an Event of Default upon notice from the Administrative Agent (acting on the direction of the Majority Banks) to the Borrower; and provided further that any failure to observe any of the covenants contained in Section 6.5 shall constitute an Event of Default five (5) Banking Days after knowledge by the Borrower of such Default (other than as a result of the giving of notice by the Administrative Agent or the Majority Banks as hereinafter provided) or, if earlier, the giving of notice by the Administrative Agent or the Majority Banks of such Default; or

(e) Any representation or warranty made in this Agreement, any Notes, or any Request for Loan was incorrect in any material respect when made or reaffirmed; or

(f) The Borrower or any of its Subsidiaries (i) fails to pay the principal, or any principal installment, or any interest or fees or any other amount of any present or future Indebtedness (other than under the Loan Documents) in an amount in excess of $200,000,000, or any guaranty of present or future Indebtedness in an aggregate amount in excess of $200,000,000, on its part to be paid, when due (and after expiration of any stated grace or notice period), whether at the stated maturity, upon acceleration, by reason of required prepayment or otherwise or (ii) fails to perform or observe any other material term, covenant or agreement on its part to be performed or observed, or suffers any event to occur, and such failure or event continues after the applicable grace period, if any, and is not waived, in connection with any present or future Indebtedness in an amount in excess of $200,000,000, or of any guaranty of present or future Indebtedness in excess of $200,000,000, if as a result of such failure or sufferance any holder or holders thereof (or an agent or trustee on its or their behalf) has the right to declare such Indebtedness or guaranty due before the date on which it otherwise would become due; or

(g) Any Loan Document, at any time after its execution and delivery and for any reason other than the agreement of the Banks or satisfaction in full of all the Obligations, ceases to be in full force and effect or is declared by a court of competent jurisdiction to be null and void, invalid or unenforceable in any respect which, in any such event in the reasonable opinion of the Majority Banks, is materially adverse to the interests of the Banks; or the Borrower denies that it has any or further liability or obligation under any Loan Document, or purports to revoke, terminate or rescind same (during the Certain Funds Period, in each case, in writing); or

(h) A judgment against the Borrower or any of its Subsidiaries is entered for the payment of money in excess of $200,000,000 (to the extent not adequately covered by insurance as to which a solvent and unaffiliated insurance company has acknowledged coverage) and, absent procurement of a stay of execution, such judgment remains unstayed, unbonded or unsatisfied for sixty (60) calendar days after the date of entry of judgment; or

(i) The Borrower, Bidco or any Subsidiary of the Borrower, the Shareholders' Equity of which, as shown on the most recent consolidated balance sheet, equals or exceeds 10% of the Shareholders' Equity of the Borrower and its Consolidated Subsidiaries as shown on such consolidated balance sheet, institutes or consents to any proceeding under a Debtor Relief Law relating to it or to all or any substantial part of its Property, or is unable or admits in writing its inability to pay its debts as they mature, or makes an assignment for the benefit of creditors; or applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator (or in the case of Bidco, an examiner), rehabilitator or similar officer for it or for all or any substantial part of its Property; or any receiver, trustee, custodian, conservator, liquidator (or in the case of Bidco, an examiner), rehabilitator or similar officer is appointed without the application or consent of that Person and the appointment continues undischarged or unstayed for sixty (60) calendar days; or any proceeding under a Debtor Relief Law relating to any such Person or to all or any part of its Property is instituted without the consent of that Person and continues undismissed or unstayed for sixty (60) calendar days; or any judgment, writ, warrant of attachment or execution or similar process is issued or levied against all or any material part of the Property of any such Person and is not released, vacated or fully bonded within sixty (60) calendar days after its issue or levy; or any order for relief shall be entered in respect of the Borrower or any such Subsidiary; or

(j) (i) Any Person or two or more Persons acting in concert shall acquire beneficial ownership (within the meaning of Rule 13d-3 of the Securities and Exchange Commission under the Securities Exchange Act of 1934) directly or indirectly, of securities of the Borrower (or other securities convertible into such securities) representing 30% or more of the combined voting power of all securities of the Borrower entitled to vote in the election of directors, other than securities having such power only by reason of the happening of a contingency; or (ii) during any period of up to 12 consecutive months, commencing before or after the date of this Agreement, individuals who at the beginning of such 12-month period were directors of the Borrower, or whose nomination for election to the Board of Directors of the Borrower was recommended or approved by a vote of at least a majority of the directors then still in office who were directors of the Borrower on the first day of such period, shall cease for any reason to constitute a majority of the Board of Directors of the Borrower; provided, however, that there shall not be an Event of Default pursuant to subsection (i) of this Section 9.1(j) with respect to any Persons who on the date hereof meet the requirements set forth in said subsection (i) of this Section 9.1(j); or

(k) there shall occur one or more ERISA Events which individually or in the aggregate results in or might reasonably be expected to result in liability of the Borrower, a Subsidiary or any of their ERISA Affiliates in excess of $200,000,000 during the term of this Agreement; or there shall exist an "amount of unfunded benefit liabilities" (as defined in Section 4001(a)(18) of ERISA), individually or in the aggregate for all Pension Plans with respect to which the Borrower or a Subsidiary has any financial liability, including potential joint and several liability in the event any such Pension Plan were to terminate (excluding for purposes of such computation any Pension Plans with respect to which assets exceed benefit liabilities), which exceeds $200,000,000 and Majority Banks determine that such event could reasonably be expected to have a Material Adverse Effect.

9.2 **Remedies Upon Event of Default**. Without limiting any other rights or remedies of the Administrative Agent or the Banks provided for elsewhere in this Agreement, or the Loan Documents, or by applicable Law, or in equity, or otherwise (but subject in all respects to Section 8.3):

(a) Upon the occurrence, and during the continuance, of any Event of Default other than an Event of Default described in Section 9.1(i) with respect to the Borrower:

(1) the commitment to make Advances and all other obligations of the Administrative Agent, the Banks and all rights of the Borrower and any other parties under the Loan Documents shall be suspended without notice to or demand upon the Borrower, which are expressly waived by the Borrower, except, subject to Section 9.2(a)(2), that the Majority Banks (or all of the Banks to the extent required by Section 11.2) may waive the Event of Default or, without waiving, determine, upon terms and conditions satisfactory to the Majority Banks (or all of the Banks, as the case may be), to reinstate the Commitments and make further Advances, which waiver or determination shall apply equally to, and shall be binding upon, all the Banks; and

(2) the Majority Banks may request the Administrative Agent to, and the Administrative Agent thereupon shall, terminate the Commitments and declare, by notice to the Borrower, all or any part of the unpaid principal of all Loans, all interest accrued and unpaid thereon and all other amounts payable under the Loan Documents to be forthwith due and payable, whereupon the same shall become and be forthwith due and payable, without protest, presentment, notice of dishonor, demand or further notice of any kind, all of which are expressly waived by the Borrower.

(b) Upon the occurrence of any Event of Default described in Section 9.1(i) with respect to the Borrower (but for the avoidance of doubt, subject to Section 8.3):

(1) the commitment to make Advances and all other obligations of the Administrative Agent or the Banks and all rights of the Borrower and any other parties under the Loan Documents shall terminate without notice to or demand upon the Borrower, which are expressly waived by the Borrower; and

(2) the unpaid principal of all Loans, all interest accrued and unpaid thereon and all other amounts payable under the Loan Documents shall be forthwith due and payable, without protest, presentment, notice of dishonor, demand or further notice of any kind, all of which are expressly waived by the Borrower.

(c) Upon the occurrence of any Event of Default, subject to clause (d) of this Section 9.2, the Banks and the Administrative Agent, or any of them, without notice to or demand upon the Borrower, which are expressly waived by the Borrower, may proceed to protect, exercise and enforce their rights and remedies under the Loan Documents against the Borrower and any other party and such other rights and remedies as are provided by Law or equity.

(d) The order and manner in which the Banks' rights and remedies are to be exercised shall be determined by the Majority Banks in their sole discretion, and all payments received by the Administrative Agent and the Banks, or any of them, shall be applied first to the costs and expenses (including attorneys' fees and disbursements covered by Section 11.3) of the Administrative Agent, acting as Administrative Agent, and of the Banks

(to the extent covered by Section 11.3), and thereafter paid pro rata to the Banks in the same proportions that the aggregate Obligations owed to each Bank under the Loan Documents bear to the aggregate Obligations owed under the Loan Documents to all the Banks, without priority or preference among the Banks. Regardless of how each Bank may treat payments for the purpose of its own accounting, for the purpose of computing the Borrower's Obligations hereunder and under the Notes, payments shall be applied first, to the costs and expenses of the Administrative Agent, acting as Administrative Agent, and the Banks, as set forth above, second, to the payment of accrued and unpaid interest due under any Loan Documents to and including the date of such application (ratably, and without duplication, according to the accrued and unpaid interest due under each of the Loan Documents), and third, to the payment of all other amounts (including principal and fees) then owing to the Administrative Agent or the Banks under the Loan Documents. No application of payments will cure any Event of Default, or prevent acceleration, or continued acceleration, of amounts payable under the Loan Documents, or prevent the exercise, or continued exercise, of rights or remedies of the Banks hereunder or thereunder or at law or in equity.

(e) Upon the occurrence of an Event of Default resulting from or resulting in the default by the Borrower in the repayment of its Term Rate Advances when required by the terms of this Agreement, the Borrower shall compensate each Bank in accordance with Section 3.6(c).

Notwithstanding anything in this Agreement to the contrary, for a period commencing on the Initial Funding Date and ending on the date falling 120 days after the Initial Funding Date (the "**Clean-up Date**"), notwithstanding any other provision of any Loan Document, any breach of covenants, misrepresentation or other default which arises with respect to the Target and its Subsidiaries will be deemed not to be a breach of representation or warranty, a breach of covenant or an Event of Default, as the case may be, if:

(i) it is capable of remedy and reasonable steps are being taken to remedy it;

(ii) the circumstances giving rise to it have not knowingly been procured by the Borrower (and the Borrower's knowledge of such circumstances does not of itself constitute procurement); and

(iii) it is not reasonably likely to have a Material Adverse Effect.

If the relevant circumstances are continuing on or after the Clean-up Date, there shall be a breach of representation or warranty, breach of covenant or Event of Default, as the case may be, notwithstanding the above.

## ARTICLE 10
## The Administrative Agent

10.1 **Appointment and Authority**. Each of the Banks hereby irrevocably appoints Citibank to act on its behalf as the Administrative Agent hereunder and under the other Loan Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Article 10 are solely for the benefit of the Administrative Agent and the Banks, and the Borrower shall have no rights as a third party beneficiary of any of such provisions (except for the consents specifically required in Section 10.6). It is understood and agreed that the use of the term "agent" herein or in any other Loan Document (or any other similar term) with reference to the Administrative 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 as a matter of market custom, and is intended to create or reflect only an administrative relationship between contracting parties.

10.2 **Rights as a Bank**. The Person serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Bank as any other Bank and may exercise the same as though it were not the Administrative Agent and the term "Bank" or "Banks" shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Administrative Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with the Borrower or any Subsidiary or other Affiliate thereof as if such Person were not the Administrative Agent hereunder and without any duty to account therefor to the Banks.

10.3 **Exculpatory Provisions**.

(a) The Administrative Agent shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents, and its duties hereunder shall be administrative in nature. Without limiting the generality of the foregoing, the Administrative Agent:

(i) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing;

(ii) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that the Administrative Agent is required to exercise as directed in writing by the Majority Banks (or such other number or percentage of the Banks as shall be expressly provided for herein or in the other Loan Documents); provided that the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Loan Document or applicable Law, including for the avoidance of doubt any action that may be in violation of the automatic stay under any Debtor Relief Law or that may effect a forfeiture, modification or termination of property of a Defaulting Bank in violation of any Debtor Relief Law; and

(iii) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower or any of their Affiliates that is communicated to or obtained by the Person serving as the Administrative Agent or any of its Affiliates in any capacity.

(b) The Administrative Agent shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the Majority Banks (or such other number or percentage of the Banks as shall be necessary, or as the Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in Section 11.2 and Article 9), or (ii) in the absence of its own gross negligence or willful misconduct as determined by a court of competent jurisdiction by final and nonappealable judgment. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until notice describing such Default is given to the Administrative Agent in writing by the Borrower or a Bank.

(c) The Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document, or (v) the satisfaction of any condition set forth in Article 8 or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

10.4 **Reliance by Administrative Agent**. The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and 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 Bank, the Administrative Agent may presume that such condition is satisfactory to such Bank unless the Administrative Agent shall have received notice to the contrary from such Bank prior to the making of such Loan. The Administrative Agent may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

10.5 **Delegation of Duties**. The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Administrative Agent. 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 Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and each such sub-agent, and shall apply to their respective activities in connection with the syndication of the Loans as well as activities as Administrative Agent. The Administrative Agent shall not be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and nonappealable judgment that the Administrative Agent acted with gross negligence or willful misconduct in the selection of such sub-agents.

10.6 **Resignation of the Administrative Agent**.

(a) The Administrative Agent may at any time, following the expiry of the Certain Funds Period, give notice of its resignation to the Banks and the Borrower. Upon receipt of any such notice of resignation, the Majority Banks shall have the right, with the written consent of the Borrower (such consent not to be unreasonably withheld and not to be required if an Event of Default has occurred and is continuing), to appoint a successor, which shall be a bank with an office in the United States, or an Affiliate of any such bank with an office in the United States. If no such successor shall have been so appointed by the Majority Banks and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its resignation (or such earlier day as shall be agreed by the Majority Banks) (the "**Resignation Effective Date**"), then the retiring Administrative Agent may (but shall not be obligated to), on behalf of the Banks, appoint a successor Administrative Agent meeting the qualifications set forth above. Whether or not a successor has been appointed, such resignation shall become effective in accordance with such notice on the Resignation Effective Date.

(b) If the Person serving as Administrative Agent is a Defaulting Bank pursuant to clause (v) of the definition thereof, the Majority Banks may, to the extent permitted by applicable Law, by notice in writing to the Borrower (and, prior to the expiry of the Certain Funds Period, with the prior written consent of the Borrower, such consent not to be unreasonably withheld or delayed) and such Person remove such Person as Administrative Agent and, with the written consent of the Borrower (such consent not to be unreasonably withheld and (following the expiry of the Certain Funds Period) not to be required if an Event of Default has occurred and is continuing), appoint a successor. If no such successor shall have been so appointed by the Majority Banks and shall have accepted such appointment within 30 days (or such earlier day as shall be agreed by the Majority Banks ) (the "**Removal Effective Date**"), then such removal shall nonetheless become effective in accordance with such notice on the Removal Effective Date.

(c) With effect from the Resignation Effective Date or the Removal Effective Date (as applicable) (1) the retiring or removed Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents and (2) except for any indemnity payments owed to the retiring or removed Administrative 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 Bank directly, until such time, if any, as the Majority Banks appoint a successor Administrative Agent as provided for above. Upon the acceptance of a successor's appointment as Administrative Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring or removed Administrative Agent (other than any rights to indemnity payments owed to the retiring or removed Administrative Agent, as of the Resignation Effective Date or the Removal Effective Date, as applicable) and the retiring or removed Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided above in this Section 10.6). The fees payable by the Borrower to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring or removed Administrative Agent's resignation or removal hereunder and under the other Loan Documents, the provisions of this Article 10 and Sections 11.3 and 11.12 shall continue in effect for the benefit of such retiring or removed Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring or removed Administrative Agent was acting as Administrative Agent.

10.7 **Non-Reliance on Administrative Agent and Other Banks**.

Each Bank acknowledges that it has, independently and without reliance upon the Administrative Agent or any other Banks or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Bank also acknowledges that it will, independently and without reliance upon the Administrative Agent or any other Bank or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder.

10.8 **Right to Indemnity**. To the extent that the Borrower for any reason fails to indefeasibly pay any amount required under Section 11.12 to be paid by it to the Administrative Agent, its directors, officers, agents, employees, attorneys and Affiliates, each Bank shall, ratably in accordance with its ratable share (based on the Commitments and Loans held by each Bank), indemnify and hold the Administrative Agent, its directors, officers, agents, employees, attorneys and Affiliates harmless against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever (including, without limitation, reasonable attorneys' fees and disbursements) that may be imposed on, incurred by or asserted against them in any way relating to or arising out of the Loan Documents (other than losses incurred by reason of the failure of the Borrower to pay the Obligations represented by the Loan Documents) or any action taken or not taken by it as Administrative Agent thereunder, except such as result from its own gross negligence or willful misconduct. Without limitation on the foregoing, each Bank shall reimburse the Administrative Agent upon demand for that Bank's ratable share of any cost or expense incurred by the Administrative Agent in connection with the negotiation, preparation, execution, delivery, amendment, waiver, restructuring, reorganization (including a bankruptcy reorganization), enforcement or attempted enforcement of the Loan Documents, to the extent that the Borrower or any other party is required by Section 11.3 to pay that cost or expense but fails to do so upon demand. Nothing in this Section shall entitle the Administrative Agent to recover any amount from the Banks if and to the extent that such amount has theretofore been recovered from the Borrower or any of its Subsidiaries. The undertaking in this Section shall survive termination of the Commitments, the payment of all other Obligations and the resignation of the Administrative Agent.

10.9 **No Other Duties, etc**. Anything herein to the contrary notwithstanding, none of the Persons acting as Arrangers or Syndication Agent listed on the cover page hereof shall have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except in its capacity, as applicable, as the Administrative Agent or as a Bank hereunder.

10.10 **Bank ERISA Matters**. (a) Each Bank (x) represents and warrants, as of the date such Person became a Bank party hereto, to, and (y) covenants, from the date such Person became a Bank party hereto to the date such Person ceases being a Bank party hereto, for the benefit of, the Administrative Agent and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Borrower, that at least one of the following is and will be true:

(i) such Bank is not using "plan assets" (within the meaning of Section 3(42) of ERISA or otherwise) of one or more Benefit Plans with respect to such Bank'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 with respect to such Bank's entrance into, participation in, administration of and performance of the Advances, the Commitments and this Agreement,

(iii) (A) such Bank 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 Bank to enter into, participate in, administer and perform the Advances, the Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Advances, 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 Bank, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Bank's entrance into, participation in, administration of and performance of the Advances, the Commitments and this Agreement, or

(iv) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Bank.

(b) In addition, unless either (1) sub-clause (i) in the immediately preceding clause (a) is true with respect to a Bank or (2) a Bank has provided another representation, warranty and covenant in accordance with sub-clause (iv) in the immediately preceding clause (a), such Bank further (x) represents and warrants, as of the date such Person became a Bank party hereto, to, and (y) covenants, from the date such Person became a Bank party hereto to the date such Person ceases being a Bank party hereto, for the benefit of, the Administrative Agent and not, for the avoidance of doubt, to or for the benefit of the Borrower, that the Administrative Agent is not a fiduciary with respect to the assets of such Bank involved in such Bank's entrance into, participation in, administration of and performance of the Advances, the Commitments and this Agreement (including in connection with the reservation or exercise of any rights by the Administrative Agent under this Agreement, any Loan Document or any documents related hereto or thereto).

10.11 **Erroneous Payment**.

(a) If the Administrative Agent (x) notifies a Bank or any Person who has received funds on behalf of a Bank (any such Bank or other recipient, a "**Payment Recipient**") that the Administrative Agent has determined in its sole discretion (whether or not after receipt of any notice under immediately succeeding clause (b)) that any funds received by such Payment Recipient from the Administrative Agent or any of its Affiliates were erroneously transmitted to, or otherwise erroneously or mistakenly received by, such Payment Recipient (whether or not known to such Bank or other Payment Recipient on its behalf) (any such funds, whether 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 and shall be segregated by the Payment Recipient pending its return or repayment as contemplated below in this Section 10.11 and held in trust for the benefit of the Administrative Agent, and such Bank 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 Banking 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 the Federal Funds Effective Rate and 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 Bank or any Person who has received funds on behalf of a Bank hereby further 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 Bank, or other such recipient, otherwise becomes aware was transmitted, or received, in error or by mistake (in whole or in part), then in each case:

(i) it acknowledges and agrees that (A) in the case of 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 immediately preceding clause (z)), in each case, with respect to such payment, prepayment or repayment; and

(ii) such Bank shall (and shall cause any other recipient that receives funds on its respective behalf to) promptly (and, in all events, within one Banking 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 10.11(b).

For the avoidance of doubt, the failure to deliver a notice to the Administrative Agent pursuant to this Section 10.11(b) shall not have any effect on a Payment Recipient's obligations pursuant to Section 10.11(a) or on whether or not an Erroneous Payment has been made.

(c) Each Bank hereby authorizes the Administrative Agent to set off, net and apply any and all amounts at any time owing to such Bank under any Loan Document, or otherwise payable or distributable by the Administrative Agent to such Bank under any Loan Document with respect to any payment of principal, interest, fees or other amounts against any amount due to the Administrative Agent under 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 immediately preceding clause (a), from any Bank 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 Bank at any time, then effective immediately (with the consideration therefor being acknowledged by the parties hereto), (A) such Bank shall be deemed to have assigned its Loans (but not its Commitments) 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 Agreement (or, to the extent applicable, an agreement incorporating an Assignment Agreement 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 Bank 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 Bank shall be deemed to acquire the Erroneous Payment Deficiency Assignment, (C) upon such deemed acquisition, the Administrative Agent as the assignee Bank shall become a Bank hereunder with respect to such Erroneous Payment Deficiency Assignment and the assigning Bank shall cease to be a Bank 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 Bank, (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 Bank and such Commitments shall remain available in accordance with the terms of this Agreement.

(ii) Subject to Section 11.9 (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 Bank 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 Bank (and/or against any recipient that receives funds on its respective behalf). In addition, an Erroneous Payment Return Deficiency owing by the applicable Bank (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 Bank 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 Bank 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 Bank, to the rights and interests of such Bank) under the Loan Documents with respect to such amount (the "**Erroneous**

**Payment Subrogation Rights**") (provided that the 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 guarantor; provided that this Section 10.11 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, 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 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 10.11 shall survive the resignation or replacement of the Administrative Agent, any transfer of rights or obligations by, or the replacement of, a Bank, the termination of the Commitments and/or the repayment, satisfaction or discharge of all Obligations (or any portion thereof) under any Loan Document.

## ARTICLE 11
## Miscellaneous

11.1 **Cumulative Remedies; No Waiver**. The rights, powers, privileges and remedies of the Administrative Agent and the Banks provided herein or in any Note or other Loan Document are cumulative and not exclusive of any right, power, privilege or remedy provided by Law or equity. No failure or delay on the part of the Administrative Agent or any Bank in exercising any right, power, privilege or remedy may be, or may be deemed to be, a waiver thereof; nor may any single or partial exercise of any right, power, privilege or remedy preclude any other or further exercise of the same or any other right, power, privilege or remedy. The terms and conditions of Article 8 hereof are inserted for the sole benefit of the Administrative Agent and the Banks; the same may be waived in whole or in part, with or without terms or conditions, in respect of any Loan without prejudicing the Administrative Agent's or the Banks' rights to assert them in whole or in part in respect of any other Loan.

11.2 **Amendments; Consents**. No amendment, modification, supplement, extension, termination or waiver of any provision of this Agreement or any other Loan Document, no approval or consent thereunder, and no consent to any departure by the Borrower or any other party therefrom, may in any event be effective unless the same shall be in writing and signed by the Majority Banks (or signed by the Administrative Agent at the direction of the Majority Banks) (and, in the case of amendments, modifications or supplements of or to any Loan Document to which a Borrower is a party, the approval in writing of the Borrower), and then only in the specific instance and for the specific purpose given; and, without the approval in writing of all the Banks directly and adversely affected by such amendment, modification, supplement, termination, waiver or consent, no amendment, modification, supplement, termination, waiver or consent may be effective:

(a) To increase any Bank's Commitment, extend scheduled payment dates of any Loan or Note beyond the Maturity Date, or reduce the rate of interest (other than any waiver of any increase in the interest rate applicable to any of the Loans pursuant to Section 3.7) or fees in respect of the Commitments or the Loans, or extend the time of payment of principal, interest or fees, or reduce the principal amount of the Obligations;

(b) To amend or modify the provisions of the definitions of "Maturity Date", or "Majority Banks" or of this Section; or

(c) To amend or modify any provision of this Agreement that expressly requires the consent or approval of all the Banks.

In addition, no amendment, modification, supplement, termination, waiver or consent shall, unless in writing and signed by the Administrative Agent in addition to the Banks required above to take such action, affect the rights or duties of the Administrative Agent acting in such capacity under this Agreement or any Note.

11.3 **Costs, Expenses and Taxes**. The Borrower shall pay on demand the reasonable costs and expenses (a) of each Arranger, the Administrative Agent and the Syndication Agent in connection with the negotiation, preparation, execution and delivery of the Loan Documents (including, without limitation, the reasonable legal fees and out-of-pocket expenses of Davis Polk & Wardwell LLP and Mason Hayes & Curran LLP), (b) if a Borrower requests the amendment, waiver, supplement or modification the Loan Documents, of the Administrative Agent in connection with any such amendment, waiver, supplement or modification (including, without limitation, the reasonable legal fees and out-of-pocket expenses of counsel to the Administrative Agent), and (c) if any Event of Default has occurred and is continuing, of the Administrative Agent and the Banks in connection with any workout, restructuring, reorganization (including a bankruptcy reorganization) and in any event enforcement or attempted enforcement of the Loan Documents, and any matter related thereto, including, without limitation, out-of-pocket expenses and the reasonable fees and out-of-pocket expenses of any legal counsel, independent public accountants and other outside experts retained by the Administrative Agent or any Bank, and including, without limitation, any costs, expenses or fees incurred or suffered by the Administrative Agent or any Bank in connection with or during the course of any bankruptcy or insolvency proceedings of the Borrower or any Subsidiary thereof. The Borrower shall pay any and all costs, expenses, fees and charges payable or determined to be payable in connection with the filing or recording of this Agreement, any other Loan Document or any other instrument or writing to be delivered hereunder or thereunder, or in connection with any transaction pursuant hereto or thereto, and shall reimburse, hold harmless and indemnify the Arrangers, the Administrative Agent, the Syndication Agent and the Banks from and against any and all loss, liability or legal or other expense with respect to or resulting from any delay in paying or failure to pay any such tax, cost, expense, fee or charge or that any of them may suffer or incur by reason of the failure of any party (other than any Arranger, the Administrative Agent, the Syndication Agent or any Bank) to perform any of its Obligations. This Section 11.3 shall not apply to the extent that any loss, liability or expense relates to any Taxes (including withholding Taxes and Other Taxes) for which there may be an indemnification, reimbursement or other payment obligation imposed on the Borrower pursuant to any other provision of this Agreement (including, without limitation, Section 3.10).

11.4 **Obligation to Make Payments in Dollars**. The obligation of the Borrower to make payments in Dollars of the principal and interest becoming due and payable on each Loan, and to pay all other Obligations hereunder in Dollars, (i) shall not be discharged or satisfied by any tender, or any recovery pursuant to any judgment, which is expressed in or converted into any currency other than Dollars, except to the extent that such tender or recovery shall result in the actual receipt by the Administrative Agent and the Banks of the full amount of Dollars, expressed to be payable in respect of the principal and interest of each Loan and in respect of each other Obligation, (ii) shall be enforceable as an alternative or additional cause of action for the purpose of recovering in Dollars, the amount, if any, by which such actual receipt shall fall short of the full amount of Dollars so expressed to be payable and (iii) shall not be affected by judgment being obtained for any other sum due under this Agreement.

11.5 **Nature of Banks' Obligations**. The obligations of the Banks hereunder are several and not joint or joint and several. Nothing contained in this Agreement or any other Loan Document and no action taken by the Administrative Agent or the Banks or any of them pursuant hereto or thereto may, or may be deemed to, make the Banks a partnership, an association, a joint venture or other entity, either among themselves or with the Borrower or any Affiliate of the Borrower. Each Bank's obligation to make any Advance pursuant hereto is several and not joint or joint and several, and is not conditioned upon the performance by all other Banks of their obligations to make Advances.

11.6 **Survival**. All representations and warranties contained herein or in any other Loan Document, or in any certificate or other writing delivered by or on behalf of any one or more of the parties to any Loan Document, will survive the making of the Advances hereunder and the execution and delivery of the Notes, and have been or will be relied upon by the Administrative Agent and each Bank, notwithstanding any investigation made by the Administrative Agent or any Bank or on their behalf. The obligations of the Borrower under Sections 3.5 and 3.6 shall survive for thirty (30) days following the termination of this Agreement and the repayment of the Notes. The obligations of the Borrower under Sections 11.3 and 11.12 shall survive the termination of this Agreement and the repayment of the Notes, provided, however, that such obligations shall not, from and after the termination of this Agreement, be deemed to be Obligations for any purpose under the Loan Documents.

11.7 **Notices and Other Communications; Facsimile Copies**.

(a) Notices General. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in paragraph (b) below), 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 facsimile or other electronic communication as follows:

(i) if to the Borrower, or the Administrative Agent, to the address, facsimile number, electronic mail address or telephone number specified for such Person on Schedule 13.7 or to such other address, facsimile number, electronic mail address or telephone number as shall be designated by such party in a notice to the other parties; and

(ii) if to any other Bank, to the address, facsimile number, electronic mail address or telephone number specified in its Administrative Questionnaire.

Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by facsimile 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 delivered through electronic communications, to the extent provided in paragraph (b)below, shall be effective as provided in said paragraph (b).

(b) Electronic Communications. Notices and other communications to the Banks 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 Bank pursuant to Article 2 if such Bank, as applicable, has notified the Administrative Agent that it is incapable of receiving notices under such Article 2 by electronic communication. The Administrative Agent or the 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 Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), 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 this Section 11.7(b), of notification that such notice or communication is available and identifying the website address therefor; provided that, for both clauses (i) and (ii) of this Section 11.7(b), if such notice, email 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.

(c) Change of Address, etc. Any party hereto may change its address or facsimile number for notices and other communications hereunder by notice to the other parties hereto.

(d) Platform.

(i) Each of the Borrower agrees that the Administrative Agent may, but shall not be obligated to, make the Communications available to the Banks by posting the Communications on DebtDomain, Intralinks, Syndtrak or a substantially similar electronic transmission systems (the "**Platform**").

(ii) THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE". THE AGENT PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OF THE PLATFORM AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS OR OMISSIONS IN THE COMMUNICATIONS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, WITHOUT LIMITATION, 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 THE AGENT PARTIES IN CONNECTION WITH THE COMMUNICATIONS OR THE PLATFORM. IN NO EVENT SHALL THE ADMINISTRATIVE AGENT OR ANY OF ITS AFFILIATES OR ANY OF THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, ADVISORS OR REPRESENTATIVES (COLLECTIVELY, "**AGENT**

**PARTIES**") HAVE ANY LIABILITY TO THE BORROWER, ANY BANK OR ANY OTHER PERSON OR ENTITY FOR DAMAGES OF ANY KIND, INCLUDING, WITHOUT LIMITATION, DIRECT OR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOSSES OR EXPENSES (WHETHER IN TORT, CONTRACT OR OTHERWISE) ARISING OUT OF THE BORROWER'S OR THE ADMINISTRATIVE AGENT'S TRANSMISSION OF COMMUNICATIONS THROUGH THE PLATFORM. "Communications" means, collectively, any notice, demand, communication, information, document or other material that the Borrower provides to the Administrative Agent pursuant to any Loan Document or the transactions contemplated therein which is distributed to the Administrative Agent or any Bank by means of electronic communications pursuant to this Section, including through the Platform.

11.8 **Execution of Loan Documents**. Unless the Administrative Agent otherwise specifies with respect to any Loan Document, this Agreement and any other Loan Document may be executed in any number of counterparts and any party hereto or thereto may execute any counterpart, each of which when executed and delivered will be deemed to be an original and all of which counterparts of this Agreement or any other Loan Document, as the case may be, when taken together will be deemed to be but one and the same instrument. The execution of this Agreement or any other Loan Document by any party hereto or thereto will not become effective until counterparts hereof or thereof, as the case may be, have been executed by all the parties hereto or thereto. The words "delivery," "execution," "execute," "signed," "signature," and words of like import in or related to any document to be signed in connection with this Agreement, the other Loan Documents and the transactions contemplated hereby or thereby shall be deemed to include electronic signatures, the electronic matching of assignment terms and contract formations on electronic platforms approved by the Administrative Agent, or the keeping of records in electronic form, each of which shall be of the same legal effect, validity and enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable Law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

11.9 **Binding Effect; Assignment; Entire Agreement**.

(a) This Agreement and the other Loan Documents shall be binding upon and shall inure to the benefit of the parties hereto and thereto and their respective successors and assigns, except that the Borrower and/or its Affiliates may not assign their rights hereunder or thereunder or any interest herein or therein without the prior written consent of all the Banks.

(b) **Assignments by Banks**. Any Bank may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitments and Loans at the time owing to it); provided that any such assignment shall be subject to the following conditions:

(i) Minimum Amounts.

(A) in the case of an assignment of the entire remaining amount of the assigning Bank's Commitments and/or the Loans at the time owing to it or contemporaneous assignments to related Approved Funds that equal at least the amount specified in Section 11.9(b)(i)(B) in the aggregate or in the case of an assignment to a Bank, an Affiliate of a Bank or an Approved Fund, no minimum amount need be assigned; and

(B) in any case not described in Section 11.9(b)(i)(A), the aggregate amount of the Commitments (which for this purpose includes Loans outstanding thereunder) or, if the Commitments are not then in effect, the principal outstanding balance of the Advances of the assigning Bank subject to each such assignment (determined as of the date the Assignment Agreement with respect to such assignment is delivered to the Administrative Agent or, if "Trade Date" is specified in the Assignment Agreement, as of the Trade Date) shall not be less than $5,000,000 and assigned amounts must be in increments of $1,000,000 unless each of the Administrative Agent and, so long as no Event of Default has occurred and is continuing, the Borrower otherwise consents in writing (each such consent not to be unreasonably withheld or delayed).

(ii) Proportionate Amounts. Each partial assignment shall be made as an assignment of a proportionate part of all the assigning Bank's rights and obligations under this Agreement with respect to the Loan or the Commitments assigned.

(iii) Required Consents. No consent shall be required for any assignment except to the extent required by Section 11.9(b)(i)(B) and, in addition:

(A) the written consent of the Borrower (such consent not to be unreasonably withheld or delayed) shall be required unless (x) (other than during the Certain Funds Period) an Event of Default under Section 9.1(a), (b) or (i) has occurred and is continuing at the time of such assignment, (y) (during the Certain Funds Period), a Certain Funds Default has occurred and is continuing at the time of such assignment, or (z) (other than during the Certain Funds Period) such assignment is to a Bank, an Affiliate of a Bank or an Approved Fund (provided in each case that reasonable notice thereof shall have been given to the Borrower and Administrative Agent); provided that it is agreed that, notwithstanding the foregoing, during the Certain Funds Period, the Borrower may withhold such consent in its sole discretion unless such assignment is from a Bank to one or more of its Affiliate(s) (in which case, provided that reasonable notice thereof shall have been given to the Borrower, such consent shall not be unreasonably withheld or delayed by the Borrower); and

(B) the written consent of the Administrative Agent (such consent not to be unreasonably withheld or delayed) shall be required if such assignment is to a Person that is not a Bank, an Affiliate of such Bank or an Approved Fund.

(iv) Assignment and Assumption. The parties to each assignment shall execute and deliver to the Administrative Agent an Assignment Agreement, together with a processing and recordation fee of $3,500; provided that the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment. The assignee, if it is not a Bank, shall deliver to the Administrative Agent an Administrative Questionnaire.

(v) No Assignment to Certain Persons. No such assignment shall be made to (A) the Borrower or the Borrower's Affiliates or Subsidiaries or (B) to any Defaulting Bank or Potential Defaulting Bank or any of their respective Subsidiaries, or any Person who, upon becoming a Bank hereunder, would constitute any of the foregoing Persons described in this clause (B).

(vi) No Assignment to Natural Persons. No such assignment shall be made to a natural Person.

(vii) Provision of Tax Forms. The documentation required by Section 11.27 with respect to such assignee shall have been provided to the Borrower and the Administrative Agent.

(viii) Certain Additional Payments. In connection with any assignment of rights and obligations of any Defaulting Bank 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 Borrower and the Administrative Agent, the applicable pro rata share of Loans previously requested but not funded by the Defaulting Bank, 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 Bank to the Administrative Agent and each other Bank hereunder (and interest accrued thereon), and (y) acquire (and fund as appropriate) its full pro rata share of all Loans. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Bank hereunder shall become effective under applicable Law without compliance with the provisions of this paragraph, then the assignee of such interest shall be deemed to be a Defaulting Bank for all purposes of this Agreement until such compliance occurs.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to Section 11.9(g), from and after the effective date specified in each Assignment Agreement, the assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment Agreement, have the rights and obligations of a Bank under this Agreement, and the assigning Bank thereunder shall, to the extent of the interest assigned by such Assignment Agreement, be released from its obligations under this Agreement (and, in the case of an Assignment Agreement covering all of the assigning Bank's rights and obligations under this Agreement, such Bank shall cease to be a party hereto) but shall continue to be entitled to the benefits of Sections 3.5, 3.6, 3.10(d), 11.3, and 11.12 with respect to facts and circumstances occurring prior to the effective date of such assignment; provided, that except to the extent otherwise expressly agreed by the affected parties, no assignment by a Defaulting Bank will constitute a waiver or release of any claim of any party hereunder arising from that Bank's having been a Defaulting Bank. Any assignment or transfer by a Bank of rights or obligations under this Agreement that does not comply with this paragraph shall be treated for purposes of this Agreement as a sale by such Bank of a participation in such rights and obligations in accordance with Section 11.9(c).

(c) **Participations**. Any Bank may at any time, without the consent of, or notice to, the Borrower or the Administrative Agent, sell participations to any Person (other than a natural Person or the Borrower or the Borrower's Affiliates or Subsidiaries) (each, a "**Participant**") in all or a portion of such Bank's rights and/or obligations under this Agreement (including all or a portion of its Commitments and/or the Loans owing to it); provided that (i) such Bank's obligations under this Agreement shall remain unchanged, (ii) such Bank shall remain solely responsible to the other parties hereto for the performance of such obligations, and (iii) the Borrower, the Administrative Agent and Banks shall continue to deal solely and directly with such Bank in connection with such Bank's rights and obligations under this Agreement. For the avoidance of doubt, each Bank shall be responsible for the indemnity under Section 10.8 with respect to any payments made by such Bank to its Participant(s).

Any agreement or instrument pursuant to which a Bank sells such a participation shall provide that such Bank shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Bank will not, without the consent of the Participant, agree to any amendment, modification or waiver described in clauses (a) and (b) (in the case of such clause (b), solely with respect to amendments or modifications of the provisions of the definition of "Maturity Date") of Section 11.2 that directly and adversely affects such Participant. The Borrower agrees that each Participant shall be entitled to the benefits of Sections 3.5, 3.6 and 3.10(d) to the same extent as if it were a Bank and had acquired its interest by assignment pursuant to Section 11.9(b); provided that such Participant agrees to be subject to the provisions of Section 11.27 as if it were an assignee under Section 11.9(b). To the extent permitted by Law, each Participant also shall be entitled to the benefits of Section 11.10 as though it were a Bank; provided that such Participant agrees to be subject to Section 11.11 as though it were a Bank.

(d) **Limitations upon Participant Rights**. Unless the Borrower otherwise agrees in writing, a Participant shall not be entitled to receive any greater payment under Sections 3.5, 3.6 and 3.10(d) than the applicable Bank would have been entitled to receive with respect to the participation sold to such Participant. A Participant shall not be entitled to the benefits of Section 3.10(d) with respect to United States withholding tax unless the Borrower is notified of the participation sold to such Participant and such Participant agrees, for the benefit of the Borrower, to comply with Section 11.27 as though it were a Bank.

(e) **Participant Register**. Each Bank that sells a participation, acting solely for this purpose as a non-fiduciary agent of the Borrower (and such agency being solely for tax purposes), shall maintain a register for the recordation of the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in its rights and other obligations under this Agreement (the "**Participant Register**"); provided that no Bank shall have any obligation to disclose all or any portion of the Participant Register to any Person (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 this Agreement) except to the extent that such disclosure is necessary to establish that such commitment, loan, letter of credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Bank shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary.

(f) **Certain Pledges**. Any Bank may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Bank, including any pledge or assignment to secure obligations to a Federal Reserve Bank or any central bank having jurisdiction over such Bank; provided that no such pledge or assignment shall release such Bank from any of its obligations hereunder or substitute any such pledgee or assignee for such Bank as a party hereto.

(g) **The Register**. The Administrative Agent, acting solely for this purpose as a non-fiduciary agent of the Borrower, shall maintain at one of its offices in the address referred to in Section 11.7 a copy of each Assignment Agreement delivered to it and a register for the recordation of the names and addresses of the Banks, and the Commitments of, and principal amounts (and stated interest) of the Loans owing to, each Bank pursuant to the terms hereof from time to time (the "**Register**"). The entries in the Register shall be conclusive absent manifest error, and the Borrower, the Administrative Agent and the Banks shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Bank hereunder for all purposes of this Agreement. The Register shall be available for inspection by the Borrower and any Bank, at any reasonable time and from time to time upon reasonable prior notice.

(h) **Debt Syndication during the Certain Funds Period.** Each of the Banks and the Administrative Agent confirms that it is aware of, and agrees to comply in all respects with, the terms and requirements of the Takeover Panel and Takeover Rules in relation to debt syndication during an offer period under the Takeover Rules.

11.10 **Setoff Rights**. Subject in all respects to Section 8.3, if an Event of Default has occurred and is continuing, the Administrative Agent and each Bank and each of its Affiliates (but only with the consent of the Majority Banks) is hereby authorized to the fullest extent permitted by law to setoff and apply any funds in any deposit account maintained with it by the Borrower and/or any Property of the Borrower in its possession against the Obligations; provided that in the event that any Defaulting Bank shall exercise any such right of setoff, (a) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 2.9 and, pending such payment, shall be segregated by such Defaulting Bank from its other funds and deemed held in trust for the benefit of the Administrative Agent and the Banks, and (b) the Defaulting Bank shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Bank as to which it exercised such right of setoff.

11.11 **Sharing of Setoffs**. Each Bank severally agrees that if it, through the exercise of any right of setoff, banker's lien or counterclaim against the Borrower, or otherwise, receives payment, through any means, of the Obligations held by it that is in excess of that Bank's proportionate share of the Total Outstandings as applied to such payment, then: (a) the Bank exercising the right of setoff, banker's lien or counterclaim or otherwise receiving such payment shall purchase, and shall be deemed to have simultaneously purchased, from the other Bank a participation in the Obligations held by the other Bank and shall pay to the other Bank a purchase price in an amount so that the share of the Obligations held by each Bank after the exercise of the right of setoff, banker's lien or counterclaim or receipt of payment shall be in the same proportion that existed prior to the exercise of the right of setoff, banker's lien or counterclaim or receipt of payment; and (b) such other adjustments and purchases of participations shall be made from time to time as shall be equitable to ensure that all of the Banks share any payment obtained in respect of the Obligations ratably in accordance with each Bank's share of the Obligations immediately prior to, and without taking into account, the payment; provided that, if all or any portion of a disproportionate payment obtained as a result of the exercise of the right of setoff, banker's lien, counterclaim or otherwise is thereafter

recovered from the purchasing Bank by the Borrower or any Person claiming through or succeeding to the rights of the Borrower, the purchase of a participation shall be rescinded and the purchase price thereof shall be restored to the extent of the recovery, but without interest. Each Bank that purchases a participation in the Obligations pursuant to this Section shall from and after the 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 Bank were the original owner of the Obligations purchased. The Borrower expressly consents to the foregoing arrangements and agrees that any Bank holding a participation in an Obligation so purchased may exercise any and all rights of setoff, banker's lien or counterclaim with respect to the participation as fully as if the Bank were the original owner of the Obligation purchased; provided, however, that each Bank agrees that it shall not exercise any right of setoff, banker's lien or counterclaim without first obtaining the consent of the Majority Banks.

11.12 **Indemnity by the Borrower**. The Borrower agrees to indemnify, save and hold harmless each Arranger, the Administrative Agent, the Syndication Agent and each Bank and their respective Related Parties (collectively the "**Indemnitees**") from and against: (a) any and all claims, demands, actions or causes of action asserted by any third party or by the Borrower if the claim, demand, action or cause of action arises out of or relates to the Commitments, the use or contemplated use of proceeds of any Advance, any transaction contemplated by this Agreement, or any relationship or relationship alleged to exist by the Borrower, its Affiliates or any other third party of any Indemnitee to the Borrower related to this Agreement; (b) any administrative or investigative proceeding by any Governmental Agency arising out of or related to a claim, demand, action or cause of action described in clause (a) of this Section 11.12; and (c) any and all liabilities, losses, costs or expenses (including reasonable attorneys' fees and disbursements and other professional services) that any Indemnitee suffers or incurs as a result of the assertion of any foregoing claim, demand, action or cause of action; provided that no Indemnitee shall be entitled to indemnification for any loss caused by its own gross negligence or willful misconduct as determined by final, nonappealable judgment of a court of competent jurisdiction. If any claim, demand, action or cause of action is asserted against any Indemnitee, such Indemnitee shall promptly notify the Borrower, but the failure to so promptly notify the Borrower shall not affect the Borrower's obligations under this Section 11.12 unless such failure materially prejudices the Borrower's right to participate in the contest of such claim, demand, action or cause of action, as hereinafter provided. If requested by the Borrower in writing, such Indemnitee shall in good faith contest the validity, applicability and amount of such claim, demand, action or cause of action and shall permit the Borrower to participate in such contest. Any Indemnitee that proposes to settle or compromise any claim or proceeding for which the Borrower may be liable for payment of indemnity hereunder shall give the Borrower written notice of the terms of such proposed settlement or compromise reasonably in advance of settling or compromising such claim or proceeding and shall obtain the Borrower's prior written consent. In connection with any claim, demand, action or cause of action covered by this Section 11.12 against more than one Indemnitee, all such Indemnitees shall be represented by the same legal counsel selected by the Indemnitees and reasonably acceptable to the Borrower; provided that, if such legal counsel determines in good faith that representing all such Indemnitees would or could result in a conflict of interest under Laws or ethical principles applicable to such legal counsel or that a defense or counterclaim is available to an Indemnitee that is not available to all such Indemnitees, then to the extent reasonably necessary to avoid such a conflict of interest or to permit unqualified assertion of such a defense or counterclaim, each Indemnitee shall be entitled to separate representation by legal counsel selected by that Indemnitee and reasonably acceptable to the Borrower, with all such legal counsel using reasonable efforts to avoid unnecessary duplication of effort by counsel for all Indemnitees; provided further that the amount of the legal fees to be reimbursed by the Borrower shall be limited to an amount reasonably determined following consultation among

the Borrower, the Administrative Agent, the Banks and their respective legal counsel, to be equal to the amount that would have been expended if the Indemnitees have been represented by one counsel. Any obligation or liability of the Borrower to any Indemnitee under this Section 11.12 shall survive the expiration or termination of this Agreement and the repayment of all Advances and the payment and performance of all other Obligations owed to the Banks. In the case of an investigation, litigation or other proceeding to which the indemnity in this Section 11.12 applies, such indemnity shall be effective whether or not such investigation, litigation or proceeding is brought by the Borrower, its directors, equityholders or creditors or an Indemnitee or any other Person, whether or not any Indemnitee is otherwise a party thereto and whether or not the transactions contemplated hereby are consummated. This Section 11.12 shall not apply to the extent that the losses, claims, demands, actions, causes of action, damages, liabilities or expenses relate to any Taxes (including withholding Taxes and Other Taxes) for which there may be an indemnification, reimbursement or other payment obligation imposed on the Borrower pursuant to any other provision of this Agreement (including, without limitation, Sections 3.6 and 3.10). No party hereto or any Indemnitee shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby.

11.13 **No Third Parties Benefited**. This Agreement is made for the purpose of defining and setting forth certain obligations, rights and duties of the Borrower, the Administrative Agent and the Banks in connection with the Loans and Advances, and is made for the sole benefit of the Borrower, the Administrative Agent and the Banks, and the Administrative Agent's and the Banks' successors and assigns. Except as provided in Sections 11.9, 11.11 and 11.12, no other Person shall have any rights of any nature hereunder or by reason hereof.

11.14 **Confidentiality**. Each of the Administrative Agent and each Bank agrees to hold any confidential information that it may receive from the Borrower pursuant to this Agreement in confidence: except for disclosure: (a) to other Banks; (b) to legal counsel, accountants and other professional advisors to the Borrower or the Administrative Agent or any Bank or agents involved in administration of this Agreement; (c) to regulatory officials having jurisdiction over the Administrative Agent or a Bank or its Affiliates; (d) as required by Law or legal process or in connection with any legal proceeding to which the Administrative Agent or a Bank and that Borrower are adverse parties; (e) to Affiliates of the Administrative Agent by the Administrative Agent, (f) to Affiliates of a Bank or to another financial institution, in each case, in connection with a disposition or proposed disposition to that financial institution of all or part of that Bank's interests hereunder or a participation interest in its Advances; (g)(i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights and obligations under this Agreement, (ii) to any direct, indirect, actual or prospective counterparty (and its advisor) to any swap, derivative or securitization transaction related to the obligations under this Agreement or (iii) or to any credit insurance provider relating to a Borrower and its Obligations, provided that such disclosure in this Section 11.14(g) is made subject to an appropriate confidentiality agreement on terms substantially similar to this Section; (h) in connection with the exercise of any remedies hereunder or any other Loan Document or the enforcement of rights hereunder or thereunder; or (i) with the consent of the Borrower. For purposes of the foregoing, "confidential information" shall mean any information respecting the Borrower or its Subsidiaries reasonably considered by the Borrower to be confidential, other than (i) information previously filed with or furnished to any Governmental Agency and available to the public, (ii) information previously published in any public medium from a source other than, directly or indirectly, that Bank, and (iii) information previously disclosed by a Borrower to any Person not associated with that Borrower without a written confidentiality agreement substantially similar to this Section 11.14. Nothing in this Section 11.14 shall be construed to create or give rise to any fiduciary duty on the part of the Administrative Agent or the Banks to the Borrower.

11.15 **Further Assurances**. The Borrower and its Subsidiaries shall, at their expense and without expense to the Banks or the Administrative Agent, do, execute and deliver such further acts and documents as any Bank or the Administrative Agent from time to time reasonably requires for the assuring and confirming unto the Banks or the Administrative Agent of the rights hereby created or intended now or hereafter so to be, or for carrying out the intention or facilitating the performance of the terms of any Loan Document.

11.16 **No Fiduciary Duties**. The Borrower agrees that in connection with all aspects of the transactions contemplated hereby and any communications in connection therewith, the Borrower and its Subsidiaries, on the one hand, and the Administrative Agent, Joint Lead Arrangers, Joint Book Runners, Co-Documentation Agents, Syndication Agents, Banks and their respective Affiliates, on the other hand, will have a business relationship that does not create, by implication or otherwise, any fiduciary duty on the part of the Administrative Agent, the Joint Lead Arrangers, the Joint Book Runners, the Co-Documentation Agents, the Syndication Agent, the Banks or their respective Affiliates and no such duty will be deemed to have arisen in connection with any such transactions or communications. Accordingly, there may be situations where the Administrative Agent, a Joint Lead Arranger, a Joint Book Runner, a Co-Documentation Agent, the Syndication Agent, a Bank or their Affiliates and/or their clients either now have or may in the future have interests, or take actions, that may conflict with the Borrower's and its Subsidiaries' interests.

11.17 **Integration**. This Agreement, together with the other Loan Documents, comprises the complete and integrated agreement of the parties on the subject matter hereof and supersedes all prior agreements, written or oral, on 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 and govern; provided that the inclusion of supplemental rights or remedies in favor of the Administrative Agent or the Banks 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.

11.18 **Severability of Provisions**. Any provision in any Loan Document that is held to be inoperative, unenforceable or invalid as to any party or in any jurisdiction shall, as to that party or jurisdiction, be inoperative, unenforceable or invalid without affecting the remaining provisions or the operation, enforceability or validity of that provision as to any other party or in any other jurisdiction, and to this end the provisions of all Loan Documents are declared to be severable.

11.19 **Independent Covenants**. Each covenant in Articles 5, 6 and 7 is independent of the other covenants in those Articles; the breach of any such covenant shall not be excused by the fact that the circumstances underlying such breach would be permitted by another such covenant.

11.20 **Headings**. Article and Section headings in this Agreement and the other Loan Documents are included for convenience of reference only and are not part of this Agreement or the other Loan Documents for any other purpose.

11.21 **Time of the Essence**. Time is of the essence of the Loan Documents.

11.22 **Applicable Law**. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF NEW YORK (INCLUDING SECTION 5-1401 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK) WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES, EXCEPT THAT, AS APPLICABLE, WHETHER THE TARGET ACQUISITION HAS BEEN CONSUMMATED AND BECOME EFFECTIVE IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE SCHEME DOCUMENTS OR THE TAKEOVER OFFER HAS BEEN CONSUMMATED AND BECOME UNCONDITIONAL IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE TAKEOVER OFFER DOCUMENTS SHALL, TO THE EXTENT REQUIRED BY THE LAWS OF IRELAND, BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF IRELAND.

11.23 **Consent to Jurisdiction and Service of Process**. (a) Each of the parties hereto hereby irrevocably and unconditionally agrees that it will not commence any action, litigation or proceeding of any kind or description, whether in law or equity, whether in contract or in tort or otherwise, against the Borrower, the Administrative Agent, any Bank or any Related Party of the foregoing in any way relating to this Agreement or any other Loan Document or the transactions relating hereto, in any forum other than the courts of the State of New York sitting in New York County and of the United States District Court of the Southern District of New York, and any appellate court from any thereof, and each of the parties hereto irrevocably and unconditionally submits to the exclusive jurisdiction of such courts and agrees that all claims in respect of any such action, litigation or proceeding may be heard and determined in such New York State or, to the fullest extent permitted by applicable Law, in such federal court. Notwithstanding the foregoing sentence, 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.

(a) By executing and delivering this Agreement, each party hereto, for itself and in connection with its properties, irrevocably

(i) accepts generally and unconditionally the exclusive jurisdiction and venue of the courts of the State of New York sitting in New York County and of the United States District Court of the Southern District of New York, and any appellate court from any thereof;

(ii) waives any defense of *forum non conveniens*;

(iii) agrees that service of all process in any such proceeding in any such court may be made by registered or certified mail, return receipt requested, to such party at its address as provided in accordance with Section 11.7 (provided that, with respect to the Borrower, service of process may be made to the Borrower at its address provided in accordance with Section 11.7) or on the signature pages hereto;

(iv) agrees that service as provided in clause (iii) above is sufficient to confer personal jurisdiction over such party in any such proceeding in any such court, and otherwise constitutes effective and binding service in every respect;

(v) agrees that each party hereto retains the right to serve process in any other manner permitted by law; and

(vi) agrees that the provisions of this Section 11.23 relating to jurisdiction and venue shall be binding and enforceable to the fullest extent permissible under New York General Obligations Law section 5-1402 or otherwise.

11.24 **Waiver of Jury Trial**. EACH OF THE PARTIES TO THIS AGREEMENT HEREBY AGREES TO WAIVE ITS RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS OR ANY DEALINGS BETWEEN THEM RELATING TO THE SUBJECT MATTER OF THIS LOAN TRANSACTION OR THE BANK/BORROWER RELATIONSHIP THAT IS BEING ESTABLISHED. The scope of this waiver is intended to be all-encompassing of any and all disputes that may be filed in any court and that relate to the subject matter of this transaction, including contract claims, tort claims, breach of duty claims and all other common law and statutory claims. Each party hereto acknowledges that this waiver is a material inducement to enter into a business relationship, that each has already relied on this waiver in entering into this Agreement, and that each will continue to rely on this waiver in their related future dealings. Each party hereto further warrants and represents that it has reviewed this waiver with its legal counsel and that it knowingly and voluntarily waives its jury trial rights following consultation with legal counsel. THIS WAIVER IS IRREVOCABLE, MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING (OTHER THAN BY A MUTUAL WRITTEN WAIVER SPECIFICALLY REFERRING TO THIS SECTION 11.24 AND EXECUTED BY EACH OF THE PARTIES HERETO), AND THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS OR TO ANY OTHER DOCUMENTS OR AGREEMENTS RELATING TO THE LOANS MADE HEREUNDER. In the event of litigation, this Agreement may be filed as a written consent to a trial by the court.

11.25 **Acknowledgement and Consent to Bail-In of Certain 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 and accepts that, to the extent any Bank party to any Loan Document is subject to the Write-Down and Conversion Powers of a Resolution Authority, any liability of such Bank under or in connection with any Loan Document may be subject to Bail-In Action by the relevant Resolution Authority and acknowledges and accepts to be bound by the effect of:

(a) the application of any Write-Down and Conversion Powers by a Resolution Authority to any such liabilities arising hereunder which may be payable to it by any Bank party hereto that is subject to the Write-Down and Conversion Powers of any Resolution Authority; 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 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 any Resolution Authority.

As used in this Section, the following terms shall have the meanings set forth below:

"**Article 55 BRRD**" means Article 55 of Directive 2014/59/EU establishing a framework for the recovery and resolution of credit institutions and investment firms.

"**Bail-In Action**" means the exercise of any Write-Down and Conversion Powers by the applicable Resolution Authority with respect to any liability of any Bank party hereto that is subject to the Write-Down and Conversion Powers of such Resolution Authority.

"**Bail-In Legislation**" means:

(a) with respect to an EEA Member Country which has implemented, or which at any time implements, Article 55 BRRD, the relevant implementing law or regulation as described in the EU Bail-In Legislation Schedule from time to time; and

(b) with respect to any state other than such an EEA Member Country or (to the extent that the United Kingdom is not such an EEA Member Country) the United Kingdom, any analogous law or regulation from time to time which requires contractual recognition of any Write-Down and Conversion Powers contained in that law or regulation.

"**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 clauses (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.

"**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.

"**Resolution Authority**" means an EEA Resolution Authority or any other body which has authority to exercise any Write-down and Conversion Powers.

"**UK Bail-In Legislation**" means (to the extent that the United Kingdom is not an EEA Member Country which has implemented, or implements, Article 55 BRRD) Part I of the United Kingdom Banking Act 2009 and any other law or regulation applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (otherwise than through liquidation, administration or other insolvency proceedings).

"**Write-Down and Conversion Powers**" means:

(a) with respect to any Bail-In Legislation described in the EU Bail-In Legislation Schedule from time to time, the powers described as such in relation to that Bail-In Legislation in the EU Bail-In Legislation Schedule; and

(b) in relation to any UK Bail-In Legislation or any other applicable Bail-In Legislation:

(i) any powers under such Bail-In Legislation to cancel, transfer or dilute shares issued by a Person that is a bank or investment firm or other financial institution or affiliate of a bank, investment firm or other financial institution, to cancel, reduce, modify or change the form of a liability of such a Person 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 such Bail-In Legislation that are related to or ancillary to any of those powers; and

(ii) any similar or analogous powers under such Bail-In Legislation.

11.26 **[Reserved]**

11.27 **Tax Forms**.

(a) (i) Each Bank that is not a "United States person" within the meaning of Section 7701(a)(30) of the Code (a "**Foreign Bank**") shall, to the extent it is legally entitled to do so, deliver to the Administrative Agent and the Borrower, prior to receipt of any payment (or upon accepting an assignment of an interest herein), two duly signed completed copies of either IRS Form W-8BEN or W-8BEN-E or any successor thereto (relating to such Foreign Bank and establishing any exemption to which it is entitled from, or reduction of, withholding tax on all applicable payments to be made to such Foreign Bank by the Borrower or the Administrative Agent, as applicable, pursuant to this Agreement) or IRS Form W-8ECI or any successor thereto (relating to all payments to be made to such Foreign Bank by the Borrower pursuant to this Agreement) or such other evidence satisfactory to the Borrower and the Administrative Agent that such Foreign Bank is entitled to an exemption from, or reduction of, United States withholding tax, including any exemption pursuant to Section 881(c) of the Code. Thereafter and from time to time, each such Foreign Bank shall (A) promptly submit to the Administrative Agent and the Borrower such additional duly completed and signed copies of one of such forms (or such successor forms as shall be adopted from time to time by the relevant United States taxing authorities) as may then be available under then current United States laws and regulations to avoid, or such evidence as is satisfactory to the Borrower and the Administrative Agent of any available exemption from or reduction of, United States withholding Taxes in respect of all payments to be made to such Foreign Bank by the Borrower pursuant to this Agreement and (B) promptly notify the Administrative Agent and the Borrower of any change in circumstances which would modify or render invalid any claimed exemption or reduction. (ii) Each Foreign Bank, to the extent it is not the beneficial owner of any portion of any sums paid or payable to such Bank under any of the Loan Documents (for example, in the case of a typical participation by such Bank) and is legally entitled to do so, shall deliver to the Administrative Agent and the Borrower on the date when such Foreign Bank ceases to be the beneficial owner of any portion of any such sums paid or payable, and at such other times as may be necessary in the determination of the Administrative Agent or the Borrower (in the reasonable exercise of their discretion), (A) two duly signed completed copies of the forms or statements required to be provided by such Bank as set forth above, to establish the portion of any such sums paid or payable with respect to which such Bank is the beneficial owner that is not subject to U.S. withholding Tax, and (B) with respect to the remaining portion of any such sums, two duly signed completed copies of IRS Form W-8IMY (or any successor thereto) accompanied by IRS Forms W-8BEN, W-8BEN-E, W-8ECI and/or any other certificate or statement of exemption from each beneficial owner required under applicable Law, to establish any available exemption from or reduction of withholding Taxes to which the beneficial owner is entitled.

(b) Upon the request of the Administrative Agent or the Borrower, each Bank that is a "United States person" within the meaning of Section 7701(a)(30) of the Code shall deliver to the Administrative Agent and the Borrower two duly signed completed copies of IRS Form W-9. If such Bank fails to deliver such forms, then the Administrative Agent or the Borrower, as applicable, may withhold from any interest payment to such Bank an amount equivalent to the applicable back-up withholding imposed by the Code or otherwise withhold any Taxes as required by applicable Law. Upon the request of the Borrower, the Administrative Agent shall provide the Borrower two duly signed completed copies of IRS Form W-9.

(c) If a payment made to a Bank under any Loan Document would be subject to withholding Tax imposed by FATCA if such Bank 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 Bank shall deliver to the Administrative Agent and the Borrower, at the time or times prescribed by Law and at such time or times reasonably requested in writing 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 in writing by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA, to determine that such Bank has complied with such Bank's obligations under FATCA or to determine the amount to deduct and withhold from such payment. For purposes of this clause (c), FATCA shall include any amendments made to FATCA after the date of this Agreement.

(d) Each Bank agrees that if any form or certification it previously delivered becomes inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower and the Administrative Agent in writing of its legal inability to do so. In addition, each Bank agrees that if any form or certification it previously delivered expires or becomes obsolete, upon written request by the Borrower or the Administrative Agent, the Bank shall update such form or certification or promptly notify the Borrower and the Administrative Agent in writing of its legal inability to do so.

11.28 **Waiver of Damages**. To the extent permitted by applicable law, no party to this Agreement shall assert, and each party to this Agreement hereby waives, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement or any agreement or instrument contemplated hereby, the transactions contemplated hereby, any Loan or the use of the proceeds thereof.

11.29 **Patriot Act Notice**. Each Bank and the Administrative Agent (for itself and not on behalf of any Bank) hereby notifies the Borrower that pursuant to the requirements of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Pub. L. 107-56, signed into law October 26, 2001 (the "**Patriot Act**") and the Beneficial Ownership Regulation, it is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow such Bank or the Administrative Agent, as applicable, to identify the Borrower in accordance with the Patriot Act and the Beneficial Ownership Regulation. The Borrower shall provide such information and take such actions as are reasonably requested by the Administrative Agent or any Banks in order to assist the Administrative Agent and the Banks in maintaining compliance with the Patriot Act and the Beneficial Ownership Regulation.

[Signature Pages Begin On Following Page]

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

**THE BORROWER:**

**AMGEN INC.**

By: /s/ Justin G. Claeys
Name: Justin G. Claeys
Title: Vice President, Finance and Treasurer

Address:

Amgen Inc.
One Amgen Center Drive
Thousand Oaks, California 91320-1799

Attn: Treasurer
cc: Corporate Secretary

Telecopier: (805) 499-6751
Telephone: (805) 447-1000

**CITIBANK, N.A.,** as Administrative Agent

By: /s/ Richard Rivera
Name: Richard Rivera
Title: Vice President

**BANK OF AMERICA, N.A.,** as Bank

By: /s/ Joseph L. Corah
Name: Joseph L. Corah
Title: Director

**CITIBANK, N.A.,** as Bank

By: /s/ Richard Rivera
Name: Richard Rivera
Title: Vice President

**CITICORP NORTH AMERICA, INC.,** as Bank

By: /s/ Richard Rivera
Name: Richard Rivera
Title: Vice President

**EXHIBIT A**

**[RESERVED]**

**EXHIBIT B**

**[FORM OF NOTE]**

[NOTE]

$ _____ [DATE]

FOR VALUE RECEIVED, the undersigned promises to pay to the order of _____ (the "**Bank**"), the principal amount of _____ Dollars ($_____), or such lesser aggregate amount of Advances as may be made pursuant to the Bank's Pro Rata Share of the Commitment under the Credit Agreement hereinafter described, payable as hereinafter set forth. The undersigned promises to pay interest on the principal amount of each Advance made hereunder and remaining unpaid from time to time from the date of each such Advance until the date of payment in full, payable as hereinafter set forth.

Reference is made to the Bridge Credit Agreement dated as of [•] (as amended from time to time, the "**Credit Agreement**"), among Amgen Inc., the Banks from time to time party thereto, Citibank, N.A., as Administrative Agent, and [_____], as Syndication Agent. Terms defined in the Credit Agreement and not otherwise defined herein are used herein with the meanings defined for those terms in the Credit Agreement. This is one of the Notes ("**Note**") referred to in the Credit Agreement, and any holder hereof is entitled to all of the rights, remedies, benefits and privileges provided for in the Credit Agreement as originally executed or as it may from time to time be supplemented, modified, amended, renewed, extended or supplanted. The Credit Agreement, among other things, contains provisions for acceleration of the maturity hereof upon the happening of certain stated events upon the terms and conditions therein specified.

The principal indebtedness evidenced by this Note shall be payable as provided in the Credit Agreement and in any event on the Maturity Date applicable to the Bank.

Interest shall be payable on the outstanding daily unpaid principal amount of each Advance hereunder from the date thereof until payment in full and shall accrue and be payable at the rates and on the dates set forth in the Credit Agreement both before and after default, before and after maturity and judgment, and before and after the commencement of any proceeding under any Debtor Relief Law with interest on overdue interest to bear interest at the rate set forth in Section 3.7 of the Credit Agreement, to the extent permitted by applicable Laws.

The undersigned shall have the right to prepay any amounts outstanding under this Note in accordance with Section 3.1(e) of the Credit Agreement.

The amount of each payment hereunto with respect to Advances made in Dollars shall be made to the Administrative Agent at the Administrative Agent's Office, for the account of the Bank in lawful money of the United States of America and in immediately available funds not later than 2:00 p.m., New York City time, on the day of payment (which must be a Banking Day). All payment received after 2:00 p.m., New York City time or local time, as the case may be, on any particular Banking Day shall be deemed received on the next succeeding Banking Day.

This Note is a registered obligation, transferrable only upon notation in the Register, and no assignment hereof shall be effective until recorded therein. A record of Advances made by and payments received by Bank with respect to this Note shall be maintained by the Administrative Agent in the Register pursuant to and in accordance with Section 11.9(g) of the Credit Agreement.

As set forth in Section 11.3 of the Credit Agreement, the undersigned hereby promises to pay the reasonable out-of-pocket costs and expenses of any holder hereof incurred in collecting the undersigned's obligations hereunder or in enforcing any holder's rights hereunder, including attorneys' fees and disbursements.

The undersigned hereby waives presentation, demand for payment, dishonor, notice of dishonor, protest, notice of protest and any other notice of formality, to the fullest extent permitted by applicable Laws.

**THIS NOTE SHALL BE DEEMED DELIVERED TO AND ACCEPTED BY THE ADMINISTRATIVE AGENT ON BEHALF OF THE BANK IN THE STATE OF NEW YORK, AND SHALL BE GOVERNED BY, AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS MADE AND PERFORMED IN SUCH STATE.**

**[BORROWER]**

By _____

Its _____

ADVANCES AND PAYMENTS OF PRINCIPAL
UNDER COMMITMENT

| Date | Type of Loan Made This Date | Maturity Date | Amount of Advance | Amount of Principal Paid | Unpaid Principal Balance | Principal Balance | Notation Made By |
|---|---|---|---|---|---|---|---|

**EXHIBIT C**

**[FORM OF COMPLIANCE CERTIFICATE]**

COMPLIANCE CERTIFICATE

1. This Compliance Certificate ("**Compliance Certificate**") is executed and delivered by AMGEN INC., a Delaware corporation (the "**Company**"), to CITIBANK, N.A. (the "**Administrative Agent**") pursuant to **Section 7.2** of the Bridge Credit Agreement dated as of [•], among the Company, the Bank from time to time party thereto, Citibank, N.A., as Administrative Agent, and [_____], as Syndication Agent (as amended from time to time, the "**Credit Agreement**"). Any terms used herein and not defined herein shall have the meanings defined in the Credit Agreement. This Compliance Certificate covers the Company's:

[Fiscal Quarter ended _____, _____]

[Fiscal Year ended December 31, _____]

2. The following paragraphs set forth calculations showing whether the Company is in compliance with its obligations pursuant to **Section 6.6** of the Credit Agreement, as of the end of the fiscal period set forth in paragraph 1 hereof. Each calculation set forth below identified as "Actual" is derived from the books and records of the Company in accordance with the relevant definitions of financial terms set forth in **Section 1.1** of the Credit Agreement, and correctly reflects whether the Company is in compliance with the obligations contained in the applicable Sections of the Credit Agreement parenthetically noted, which obligations are set forth below identified under the column marked "Required/Permitted".

**I. Consolidated Interest Coverage Ratio (Section 6.6)**

| | | | | |
|---|---|---|---|---|
| (a) | Consolidated EBITDA | $ _____ | | |
| (b) | Consolidated Interest Expense | $ _____ | | |
| (a) | | _____ | Not less than 3.50 to 1.00 | |
| (b) | | | In compliance | _____ (Y or N) |

3. To the best knowledge of the undersigned, during the fiscal period covered by this Compliance Certificate, no Default has occurred and is continuing, with the exceptions set forth below in response to which the Company has taken or proposes to take the following actions (if none, so state):

_____

_____

_____

4. This Compliance Certificate is executed on _____, ____, by a Senior Officer of the Company. The undersigned hereby certifies that each and every matter contained herein is derived from the Company's books and records and is, to the best knowledge of the undersigned, true and correct.

**AMGEN INC.**

By _____
Its _____

**EXHIBIT D**

**[RESERVED]**

**EXHIBIT E**

**[FORM OF REQUEST FOR LOAN]**

REQUEST FOR LOAN

1. The Request for Loan is by _____ (the "**Borrower**") to Citibank, N. A. (the "**Administrative Agent**") pursuant to that certain Bridge Credit Agreement dated as of [•] (as it may be amended, supplemented or otherwise modified from time to time, the "**Credit Agreement**") among Amgen Inc., the Banks from time to time party thereto, the Administrative Agent, and [_____], as Syndication Agent. Capitalized terms used herein and not defined herein shall have the meanings defined in the Credit Agreement.

2. Borrower hereby requests a Loan for the account of Borrower pursuant to the Credit Agreement as follows:

(a) DATE OF LOAN: _____

(b) TYPE OF LOAN (Check one box only):

__ BASE RATE ADVANCE

__ TERM RATE ADVANCE WITH A __-MONTH INTEREST PERIOD

(c) AMOUNT OF REQUESTED LOAN: $_____

(d) INTEREST PERIOD OF LOAN ENDS: _____

3. In connection with the request pursuant to Section 2 above, Borrower certifies that:

(a) Prior to giving effect to the Loans requested hereby, the aggregate outstanding principal amount of Advances is $_____.

(b) As of the date of the requested Loan, (i) each Certain Funds Representation will be true and correct in all material respects (except that to the extent any representation or warranty is qualified by materiality, it shall be true and correct in all respects), as though such representations and warranties were made on and as of that date (except to the extent such representations and warranties specifically relate to an earlier date in which case they shall be true and correct in all material respects as of such earlier date), (ii) no Certain Funds Default is continuing, and (iii) after giving effect to the requested Loan, the Total Outstandings will not exceed the Commitments.

4. [Borrower instructs the Administrative Agent to deduct from the requested Loan all fees due and payable by Borrower to (or for the account of) the Administrative Agent, Banks and/or Arrangers (as applicable) as of the date of the requested Loan, to the extent invoiced (if applicable) by the relevant person at least three Banking Days prior to the Funding Date, in satisfaction of the same.][1]

5. This Request for Loan is executed on _____, __ by a Senior Officer of Borrower on behalf of Borrower. The undersigned in such capacity, hereby certifies each and every matter contained herein to be true and correct **except** as previously disclosed by Borrower in writing to the Banks and waived by the Majority Banks or all Banks, as applicable.

**[BORROWER]**

By _____
Its _____

[1] To be included to the extent the fees are netted at closing.

**EXHIBIT F**

**[FORM OF ASSIGNMENT AGREEMENT]**

ASSIGNMENT AGREEMENT

This Assignment Agreement (the "**Assignment Agreement**") is dated as of the Effective Date set forth below and is entered into by and between [the][each][2] Assignor identified in item 1 below ([the][each, an] "**Assignor**") and [the][each][3] Assignee identified in item 2 below ([the][each, an] "**Assignee**"). [It is understood and agreed that the rights and obligations of [the Assignors][the Assignees][4] hereunder are several and not joint.][5] Capitalized terms used but not defined herein shall have the meanings given to them in the Credit Agreement identified below (as amended, supplemented or otherwise modified from time to time, the "**Credit Agreement**"), receipt of a copy of which is hereby acknowledged by [the][each] Assignee. The Standard Terms and Conditions set forth in Annex I attached hereto are hereby agreed to and incorporated herein by reference and made a part of this Assignment Agreement as if set forth herein in full.

For an agreed consideration, [the][each] Assignor hereby irrevocably sells and assigns to [the Assignee][the respective Assignees], and [the][each] Assignee hereby irrevocably purchases and assumes from [the Assignor][the respective Assignors], subject to and in accordance with the Standard Terms and Conditions and the Credit Agreement, as of the Effective Date inserted by the Administrative Agent as contemplated below (i) all of [the Assignor's][the respective Assignors'] rights and obligations in [its capacity as a Bank][their respective capacities as Banks] under the Credit Agreement and any other documents or instruments delivered pursuant thereto to the extent related to the amount and percentage interest identified below of all of such outstanding rights and obligations of [the Assignor][the respective Assignors] under the respective facilities identified below, and (ii) to the extent permitted to be assigned under applicable law, all claims, suits, causes of action and any other right of [the Assignor (in its capacity as a Bank)][the respective Assignors (in their respective capacities as Banks)] against any Person, whether known or unknown, arising under or in connection with the Credit Agreement, any other documents or instruments delivered pursuant thereto or the loan transactions governed thereby or in

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2 For bracketed language here and elsewhere in this form relating to the Assignor(s) if the assignment is from a single Assignor, choose the first bracketed language. If the assignment is from multiple Assignors, choose the second bracketed language.

3 For bracketed language here and elsewhere in this form relating.to the Assignee(s), if the assignment is to a single Assignee, choose the first bracketed language. If the assignment is to multiple Assignees, choose the second bracketed language.

4 Select as appropriate.

5 Include bracketed language if there are either multiple Assignors or multiple Assignees.

any way based on or related to any of the foregoing, including, but not limited to, contract claims, tort claims, malpractice claims, statutory claims and all other claims at law or in equity related to the rights and obligations sold and assigned pursuant to clause (i) above (the rights and obligations sold and assigned by [the][any] Assignor to [the][any] Assignee pursuant to clauses (i) and (ii) above being referred to herein collectively as [the][an] "**Assigned Interest**"). Each such sale and assignment is without recourse to [the][any] Assignor and, except as expressly provided in this Assignment Agreement, without representation or warranty by [the][ any] Assignor.

1. Assignor[s]: _____
_____

[Assignor [is][is not] a Defaulting Bank]

2. Assignee[s]: _____
_____

[for each Assignee, indicate [Affiliate][Approved Fund] of [*identify Bank]*

3. Borrower: [Amgen Inc.]

4. Administrative Agent: Citibank, N.A. ("**Citibank**"), as the administrative agent under the Credit Agreement

5. Credit Agreement: The Bridge Credit Agreement dated as of [•] among Amgen Inc., the Banks parties thereto, Citibank, as Administrative Agent, and the other agents parties thereto

6. Assigned Interest[s]:

| Assignor[s][6] | Assignee[s][7] | Aggregate Amount of Commitment/ Advances for all Banks[8] | Amount of Commitment /Advances Assigned[9] | Percentage Assigned of Commitment/ Advances[10] | CUSIP Number |
|---|---|---|---|---|---|
| | | $ | $ | % | |
| | | $ | $ | % | |
| | | $ | $ | % | |

11.45 Trade Date: _____

[Page break]

6 List each Assignor, as appropriate.

7 List each Assignee, as appropriate.

8 Amount to be adjusted by the counterparties to take into account any payments or prepayments made between the Trade Date and the Effective Date.

9 Set forth, to at least 9 decimals, as a percentage of the Commitment/Advances of all Banks thereunder.

10 To be completed if the Assignor(s) and the Assignee(s) intend that the minimum assignment amount is to be determined as of the Trade Date.

Effective Date: _____, 20__ [TO BE INSERTED BY AGENT AND WHICH SHALL BE THE EFFECTIVE DATE OF RECORDATION OF TRANSFER IN THE REGISTER THEREFOR.]

The terms set forth in this Assignment Agreement are hereby agreed to:

ASSIGNOR[S][11]

By: _____
Title:

[NAME OF ASSIGNOR]

By: _____
Title:

ASSIGNEE[S][12]
NAME OF ASSIGNEE

By: _____
Title:

NAME OF ASSIGNEE

By: _____
Title:

[Consented to and][13] Accepted:

CITIBANK, N.A., as
Administrative Agent

By: _____
Title:

11 Add additional signature blocks as needed.
12 Add additional signature blocks as needed.
13 To be added only if the consent of the Administrative Agent is required by the terms of the Credit Agreement.

[Consented to and][14] Accepted:

[NAME OF ISSUING BANK],
as Issuing Bank

By: _____
Title:

[Consented to:][15]

AMGEN INC.,
as the Borrower

By: _____
Title:

14 To be added only if the consent of the Issuing Bank is required by the terms of the Credit Agreement.
15 To be added only if the consent of the Borrower is required by the terms of the Credit Agreement.

**ANNEX 1**

**AMGEN INC. BRIDGE CREDIT AGREEMENT DATED AS OF DECEMBER [•], 2022**

STANDARD TERMS AND CONDITIONS FOR
ASSIGNMENT AGREEMENT

1. Representations and Warranties.

1.1. **Assignor[s]**. [The][Each] Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of [the] [the relevant] Assigned Interest, (ii) [the] [such] Assigned Interest is free and clear of any lien, encumbrance or other adverse claim, (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment Agreement and to consummate the transactions contemplated hereby and (iv) it is [not] a Defaulting Bank; and (b) assumes no responsibility with respect to (i) any statements, warranties or representations made in or in connection with the Credit Agreement or any other Loan Document, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Loan Documents or any collateral thereunder, (iii) the financial condition of the Borrowers, any of their Subsidiaries or Affiliates or any other Person obligated in respect of any Loan Document, or (iv) the performance or observance by the Borrowers, any of their Subsidiaries or Affiliates or any other Person of any of their respective obligations under any Loan Document.

1.2. **Assignee[s]**. [The] [Each] Assignee (a) represents and warrants that (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment Agreement and to consummate the transactions contemplated hereby and to become a Bank under the Credit Agreement, (ii) it meets all the requirements to be an assignee under Section 11.9(b)(iii), (v) and (vi) of the Credit Agreement (subject to such consents, if any, as may be required under Section 11.9(b)(iii) of the Credit Agreement), (iii) from and after the Effective Date, it shall be bound by the provisions of the Credit Agreement as a Bank thereunder and, to the extent of [the] [the relevant] Assigned Interest, shall have the obligations of a Bank thereunder, (iv) it is sophisticated with respect to decisions to acquire assets of the type represented by the Assigned Interest and either it, or the Person exercising discretion in making its decision to acquire the Assigned Interest, is experienced in acquiring assets of such type, (v) it has received a copy of the Credit Agreement, and has received or has been accorded the opportunity to receive copies of the most recent financial statements delivered pursuant to Section 7.1 thereof, as applicable, and such other documents and information as it deems appropriate to make its own credit analysis and decision to enter into this Assignment Agreement and to purchase [the][such] Assigned Interest, (vi) it has, independently and without reliance upon the Administrative Agent or any other Bank and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Assignment Agreement and to purchase [the] [such] Assigned Interest, and (vii) attached to the Assignment Agreement is any documentation required to be delivered by it pursuant to Section 11.27 of the Credit Agreement, duly completed and executed by [the] [such] Assignee; and (b) agrees that (i) it will, independently and without reliance on the

Administrative Agent, [the][any] Assignor or any other Bank, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Loan Documents, and (ii) it will perform in accordance with their terms all of the obligations which by the terms of the Loan Documents are required to be performed by it as a Bank.

2. **Payments**. From and after the Effective Date, the Agent shall make all payments in respect of [the] [each] Assigned Interest (including payments of principal interest, fees and other amounts) to [the][the relevant] Assignee whether such amounts have accrued prior to, on or after the Effective Date. The Assignor[s] and the Assignee[s] shall make all appropriate adjustments in payments by the Administrative Agent for periods prior to the Effective Date or with respect to the making of this assignment directly between themselves.

3. **General Provisions**. This Assignment Agreement shall be binding upon, and inure to the benefit of, the parties hereto and then respective successors and assigns. This Assignment Agreement may be executed m any number of counterparts, which together shall constitute one instrument. Delivery of an executed counterpart of a signature page of this Assignment Agreement by telecopy shall be effective as delivery of a manually executed counterpart of this Assignment Agreement. This Assignment Agreement shall be governed by, and construed in accordance with, the law of the State of New York.

**SCHEDULE 2.1**

**BANKS' COMMITMENTS**

| Bank | Commitment |
|---|---|
| Citibank, N.A. | $ 6,550,000,000.00 |
| Citicorp North America, Inc. | $ 9,125,000,000.00 |
| Bank of America, N.A. | $12,825,000,000.00 |
| **Total:** | **$28,500,000,000.00** |

**SCHEDULE 4.4**

**DISCLOSURE OF SUBSIDIARIES**

Amgen (Europe) GmbH
Amgen Canada Inc.
Amgen Fremont Inc.
Amgen Global Finance B.V.
Amgen GmbH Germany
Amgen Ilac Ticaret Limited Sirketi
Amgen K-A, Inc.
Amgen Manufacturing, Limited
Amgen Research (Munich) GmbH
Amgen Rockville, Inc.
Amgen S.A.S.
Amgen S.r.l.[17]
Amgen SF, LLC
Amgen Singapore Manufacturing Pte. Ltd.
Amgen Technology (Ireland) Unlimited Company
Amgen Technology, Limited
Amgen USA Inc.
Amgen Worldwide Holdings B.V.
Amgen, S.A.
BioVex, Inc.
deCODE Genetics ehf
Five Prime Therapeutics Inc.
Gensenta Ilac Sanayi ve Ticaret Anomim Sirketi
Immunex Corporation
Immunex Rhode Island Corporation
KAI Pharmaceuticals, Inc.
Ilypsa, Inc.
Onyx Pharmaceuticals, Inc.
Onyx Therapeutics, Inc.
Saga Investments Coöperatief U.A.
TeneoBio, Inc.

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17 Formerly named Amgen S.p.A.

**SCHEDULE 4.8**

**LITIGATION**

None.

**SCHEDULE 4.11(c)**

**ERISA**

Amgen Inc. Retiree Medical Savings Account Plan.

**SCHEDULE 4.15**

**ENVIRONMENTAL**

None.

**SCHEDULE 6.3**

**LIENS**

None.

**SCHEDULE 13.7**

**NOTICES**

**THE COMPANY**

Amgen Inc.
One Amgen Center Drive
Thousand Oaks, California 91320-1799
Attention: Corporate Secretary

Telecopier: (805) 499-6751
Telephone: (805) 447-1000
Email: to.treasury@amgen.com

Website: www.amgen.com

**THE ADMINISTRATIVE AGENT**

Citibank, N.A.
One Penns Way OPS II, Floor 2
New Castle, DE 19720
Attn: Agency Operations
Facsimile No. (646) 274-5080
Telephone No. (302) 894-6160
E-mail: AgencyABTFSupport@citi.com

With copies to:
Agency Operations
Email: GLAgentOfficeOps@citi.com

***NOT FOR RELEASE, PUBLICATION OR DISTRIBUTION, IN WHOLE OR IN PART, IN, INTO OR FROM ANY JURISDICTION WHERE TO DO SO WOULD CONSTITUTE A VIOLATION OF THE RELEVANT LAWS OR REGULATIONS OF SUCH JURISDICTION***

***THIS ANNOUNCEMENT IS BEING MADE PURSUANT TO RULE 2.7 OF THE IRISH TAKEOVER RULES***

***FOR IMMEDIATE RELEASE***

***December 12, 2022***

**RECOMMENDED CASH OFFER**

**for**

**HORIZON THERAPEUTICS PLC**

**by**

**Pillartree Limited, a newly formed private limited company wholly owned by Amgen Inc.**

**to be implemented by way of a scheme of arrangement under Chapter 1 of Part 9 of the Companies Act 2014**

**Summary**

- The board of directors of Horizon Therapeutics plc (the "**Company**" or "**Horizon**") and the board of directors of Amgen Inc. ("**Amgen**") are pleased to announce that they have reached agreement on the terms of a cash offer for the Company by Pillartree Limited ("**Acquirer Sub**"), a newly formed private limited company wholly owned by Amgen, which is unanimously recommended by the Company Board and pursuant to which Acquirer Sub will acquire the entire issued and to be issued ordinary share capital of the Company. Under the terms of the Acquisition, each Company Shareholder at the Scheme Record Time will be entitled to receive:

  **$116.50 for each Company Share in cash**

- The Acquisition represents:

  - a premium of approximately 47.9% to the closing price of $78.76 per Company Share on November 29, 2022 (being the last closing price per Company Share prior to the Company's issuance of an announcement of a possible offer under Rule 2.4 of the Irish Takeover Rules); and

  - a premium of approximately 19.7% to the closing price of $97.29 per Company Share on December 9, 2022.

- The Acquisition values the entire issued and to be issued ordinary share capital of the Company at approximately $27.8 billion on a fully diluted basis and implies an enterprise value of approximately $28.3 billion.

- Amgen has entered into a Bridge Credit Agreement, dated December 12, 2022, for an aggregate amount of $28.5 billion, by and among Amgen, Citibank N.A., as administrative agent, Bank of America, N.A., as syndication agent, and Citibank, N.A. and Bank of America, N.A. as lead arrangers and book runners, and the other banks from time to time party thereto to finance, together with Amgen's own cash resources, the Acquisition. Further information on the financing of the Acquisition will be set out in the Proxy Statement (which will include the Scheme Document).

- Commenting on today's announcement, Tim Walbert, chairman, president and chief executive officer of the Company said:

  "*In nearly 15 years, we have built one of the fastest growing and most respected companies in the biotechnology industry from the ground up. We have accomplished a tremendous amount for patients, their families and our customers, and created significant value for shareholders. These accomplishments are all rooted in our employees' deep commitment, dedication and personal passion for those impacted by rare, autoimmune and severe inflammatory diseases. Amgen is aligned with that commitment and passion and will continue to maximise the value of the current portfolio and pipeline and accelerate the ability to reach more patients globally.*"

- Commenting on today's announcement, Robert A. Bradway, chairman and chief executive officer of Amgen said:

  "*The acquisition of Horizon is a compelling opportunity for Amgen and one that is consistent with our strategy of delivering long-term growth by providing innovative medicines that address the needs of patients who suffer from serious diseases. Amgen's decades of leadership in inflammation and nephrology, combined with our global presence and world-class biologics capabilities, will enable us to reach many more patients with first-in-class medicines like TEPEZZA, KRYSTEXXA and UPLIZNA. Additionally, the potential new medicines in Horizon's pipeline strongly complement our own R&D portfolio. The acquisition of Horizon will drive growth in Amgen's revenue and non-GAAP EPS and is expected to be accretive from 2024.*"

**Amgen Background to and Reasons for the Acquisition**

Amgen believes that there is a compelling strategic and financial rationale for undertaking the Acquisition, which is expected to deliver the following benefits:

- Strengthens Amgen's portfolio of first-in-class / best-in-class innovative therapeutics by adding a complementary portfolio of medicines from Horizon that address the needs of patients suffering from rare diseases;

- Capitalises on Amgen's 20-year commercial and medical legacy in inflammation and nephrology and its global scale to enhance the growth potential of Horizon's portfolio;

- Utilises Amgen's industry-leading research and development, process development and global manufacturing expertise in biologic medicines for the benefit of Horizon's approved medicines and potential new medicines;

- Generates robust cash flow (approximately $10 billion combined over twelve months through Q3 2022)[1] to support capital allocation priorities, including ongoing investment in innovation and continued dividend growth while sustaining a commitment to an investment grade credit rating;

- Accelerates revenue growth and is expected to be accretive to non-GAAP earnings per share from 2024; and

- Increases efficiency for the Combined Group, leading to an estimated annual pre-tax cost reduction of at least $500 million by the end of the third fiscal year following Completion.

**Company Board Recommendation**

- Having taken into account the relevant factors and applicable risks, the Company Board, which has been so advised by Morgan Stanley, which as financial advisor to the Company Board has rendered a fairness opinion, considers the terms of the Acquisition as set out in this Announcement to be fair and reasonable. In providing its advice to the Company Board, Morgan Stanley has taken into account the commercial assessments of the Company Directors. The Company Board has unanimously determined that the Transaction Agreement and the Transactions, including the Scheme, are advisable for, fair to and in the best interests of, the Company Shareholders.

- Accordingly, the Company Board unanimously recommends that Company Shareholders vote in favour of the Scheme Meeting Resolution and the Required EGM Resolutions, or, if the Acquisition is implemented by a Takeover Offer, accept or procure acceptance of such Takeover Offer.

**Timeline and Conditions**

- It is agreed that the Acquisition will be implemented by way of an Irish High Court-sanctioned scheme of arrangement under Chapter 1 of Part 9 of the Irish Companies Act (although Acquirer

[1] For the twelve months through Q3 2022, Amgen GAAP operating cash flow of $9.88 billion less Amgen capital expenditures of $883 million plus Horizon GAAP operating cash flow of $1.37 billion less Horizon capital expenditures of $56 million = ~$10 billion

Sub reserves the right to effect the Acquisition by way of a Takeover Offer, subject to the provisions of the Transaction Agreement and the Irish Takeover Rules and with the consent of the Irish Takeover Panel).

- The Acquisition will be subject to the satisfaction or waiver (as applicable) of the Conditions, which are set out in full in Appendix 3 (*Conditions of the Acquisition and the Scheme*) to this Announcement, including, in summary:
    - the requisite approval by Company Shareholders of the Scheme Meeting Resolution and the Required EGM Resolutions;
    - the sanction of the Scheme by the Irish High Court; and
    - the receipt of required antitrust clearances in the United States, Austria and Germany and the receipt of required foreign investment clearances in France, Germany, Denmark and Italy.
- It is expected that the Scheme Document, containing further information about the Acquisition and notices of the Scheme Meeting and the EGM, the expected timetable for Completion and action to be taken by Company Shareholders, will be published as soon as practicable. It is anticipated that the Scheme will, subject to obtaining the necessary regulatory approvals, be declared effective in the first half of 2023. An expected timetable of key events relating to the Acquisition will be provided in the Scheme Document.

**Advisors**

- The Company's financial advisors in respect of the Acquisition are Morgan Stanley and J.P. Morgan. The Company's legal advisors are Cooley LLP and Matheson LLP.
- Amgen's lead financial advisor in respect of the Acquisition is PJT Partners and its financial advisor is Citigroup. Amgen's legal advisors are Sullivan & Cromwell LLP and William Fry LLP.

**About the Company Group**

- The Company is a public limited company registered in Ireland whose shares are admitted to trading on Nasdaq under the ticker "HZNP".
- The Company is a global biotechnology company headquartered in Dublin, Ireland and is focused on the discovery, development and commercialization of medicines that address critical needs for people impacted by rare, autoimmune and severe inflammatory diseases. The Company has 12 marketed medicines and a pipeline with more than 20 development programs. The Company has offices or a presence across four continents and more than 2,000 employees.
- For more information about the Company Group, see www.horizontherapeutics.com.

**About Amgen and Acquirer Sub**

- Acquirer Sub is a private limited company incorporated in Ireland established for the sole purpose of implementing the Acquisition and is a wholly owned subsidiary of Amgen. As of the date of this Announcement, the entire issued ordinary share capital of Acquirer Sub is owned by Amgen.

- Amgen is a highly focused biotechnology company committed to unlocking the potential of biology for patients suffering from serious illnesses by discovering, developing, manufacturing and delivering innovative human therapeutics. This approach begins by using tools like advanced human genetics to unravel the complexities of disease and understand the fundamentals of human biology. Amgen focuses on areas of high unmet medical need and leverages its expertise to strive for solutions that improve health outcomes and dramatically improve people's lives. A biotechnology pioneer since 1980, Amgen has grown to be one of the world's leading independent biotechnology companies. Amgen is one of the 30 companies that comprise the Dow Jones Industrial Average and is also part of the Nasdaq-100 index.

- For more information about Amgen, see www.amgen.com.

**Enquiries**


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**WEBCAST INFORMATION**

Amgen will host a webcast call for the investment community at 5:00 a.m. Pacific Standard Time on December 12, 2022. Robert A. Bradway, chairman and chief executive officer, along with other members of Amgen's management team, will present an overview of Amgen's acquisition of Horizon.

The webcast will be broadcast over the internet simultaneously and will be available to members of the news media, investors and the general public.

The webcast, as with other selected presentations regarding developments in Amgen's business given by Amgen management at certain investor and medical conferences, can be found on Amgen's website, www.amgen.com, under "Investors". Information regarding presentation times, webcast availability and webcast links are noted on Amgen's Investor Relations Events Calendar. The webcast will be archived and available for replay for at least 90 days after the event.

**NO OFFER OR SOLICITATION**

This Announcement is for information purposes only and is not intended to and does not constitute, or form part of, an offer, invitation or the solicitation of an offer or invitation to purchase, otherwise acquire, subscribe for, sell or otherwise dispose of any securities, or the solicitation of any vote or approval in any jurisdiction, pursuant to the Acquisition or otherwise, nor shall there be any sale, issuance or transfer of securities in any jurisdiction in contravention of applicable Law.

The Acquisition will be implemented by means of an Irish High Court-sanctioned scheme of arrangement on the terms provided for in the Scheme Document (or, if the Acquisition is implemented by way of a Takeover Offer, the Takeover Offer Document), which will contain the full terms and conditions of the Acquisition, including details of how Company Shareholders may vote in respect of the Acquisition. Any decision in respect of, or other response to, the Acquisition, should be made only on the basis of the information contained in the Scheme Document (or if the Acquisition is implemented by way of a Takeover Offer, the Takeover Offer Document).

**IMPORTANT ADDITIONAL INFORMATION WILL BE FILED WITH THE SEC**

In connection with the Acquisition, the Company will file with the SEC a Proxy Statement (which will include the Scheme Document). The Proxy Statement will be mailed to Company Shareholders as of the record date to be established for voting at the Scheme Meeting or EGM. This Announcement is not a substitute for the Proxy Statement or any other document that the Company may file with the SEC or send to its shareholders in connection with the Acquisition. BEFORE MAKING ANY VOTING DECISION, HOLDERS OF COMPANY SHARES ARE URGED TO READ THE PROXY STATEMENT (INCLUDING THE SCHEME DOCUMENT) ANY AMENDMENTS OR SUPPLEMENTS THERETO AND OTHER RELEVANT DOCUMENTS FILED OR TO BE FILED WITH THE SEC IN CONNECTION WITH THE ACQUISITION, INCLUDING ANY DOCUMENTS INCORPORATED BY REFERENCE THEREIN, CAREFULLY AND IN THEIR ENTIRETY WHEN THEY BECOME AVAILABLE BECAUSE THEY WILL CONTAIN IMPORTANT INFORMATION ABOUT THE ACQUISITION, THE PARTIES TO THE SCHEME AND RELATED MATTERS.

Any vote in respect of the Scheme Meeting Resolution and the EGM Resolutions to approve the Acquisition, the Scheme or related matters, or other responses in relation to the Acquisition, should be made only on the basis of the information contained in the Proxy Statement (including the Scheme Document).

The Proxy Statement, if and when filed, as well as the Company's other public filings with the SEC, may be obtained without charge at the SEC's website at www.sec.gov and at the Company's website at www.horizontherapeutics.com. Company Shareholders and investors will also be able to obtain, without charge, a copy of the Proxy Statement (including the Scheme Document) and other relevant documents (when available) by directing a written request to the Company, Attn: Investor Relations, 70 St. Stephen's Green, Dublin 2, D02 E2X4, Ireland, or by contacting Tina Ventura, Investor Relations, by email to ir@horizontherapeutics.com.

**PARTICIPANTS IN THE SOLICITATION**

The Company and certain of its directors, executive officers and employees may be deemed to be participants in the solicitation of proxies from Company Shareholders in connection with the Acquisition and any other matters to be voted on at the Scheme Meeting or the EGM. Information about the directors and executive officers of the Company, including a description of their direct or indirect interests, by security holdings or otherwise, is set forth in the Company's definitive proxy statement on Schedule 14A for its 2022 annual general meeting of shareholders, dated and filed with the SEC on March 17, 2022. Other information regarding the persons who may, under the rules of the SEC, be deemed to be participants in the solicitation of Company Shareholders, including a description of their direct or indirect interests, by security holdings or otherwise, will be set forth in the Proxy Statement (which will contain the Scheme Document) and other relevant materials to be filed with the SEC in connection with the Acquisition. You may obtain free copies of these documents using the sources indicated above.

**CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING STATEMENTS**

This Announcement contains certain statements about the Company and Amgen that are or may be forward-looking statements which include, but are not limited to, statements regarding expected timing, completion and effects of the Acquisition. These forward-looking statements are subject to the safe harbor provisions under the U.S. Private Securities Litigation Reform Act of 1995. All statements other than statements of historical facts included in this Announcement may be forward-looking statements. Without limitation, forward-looking statements often include words such as "expect," "anticipate," "outlook," "could," "target," "project," "intend," "plan," "believe," "seek," "estimate," "should," "may," "assume" and "continue" as well as variations of such words and similar expressions are intended to identify such forward-looking statements. The Company's and Amgen's expectations and beliefs regarding these matters may not materialise. Actual outcomes and results may differ materially from those contemplated by these forward-looking statements as a result of uncertainties, risks, and changes in circumstances, including but not limited to risks and uncertainties related to: the ability of the Parties to consummate the Acquisition in a timely manner or at all; the satisfaction (or waiver) of conditions to the consummation of the Acquisition, including with respect to the approval of Company Shareholders and required regulatory approvals; potential delays in consummating the Acquisition; the ability of the Company and Amgen to timely and successfully achieve the anticipated strategic benefits, synergies or opportunities expected as a result of the Acquisition; the successful integration of the Company into Amgen subsequent to Completion and the timing of such integration; the impact of changes in global, political, economic, business, competitive, market and regulatory forces; the impact of health pandemics, including the COVID-19 pandemic, on the Company's or Amgen's respective businesses; the occurrence of any event, change or other circumstance or condition that could give rise to the termination of the Transaction Agreement; adverse effects on the market price of the Company's or Amgen's securities and on the Company's or

Amgen's operating results because of a failure to complete the Acquisition; the effect of the announcement or pendency of the Acquisition on the Company's or Amgen's business relationships, operating results and business generally; costs related to the Acquisition; and the outcome of any legal proceedings that may be instituted against the Company, Amgen, Acquirer Sub or any of their respective directors or officers related to the Transaction Agreement or the Acquisition. Additional risks and uncertainties that could cause actual outcomes and results to differ materially from those contemplated by the forward-looking statements are included under the caption "Risk Factors" and elsewhere in the Company's most recent filings with the SEC, including its Quarterly Report on Form 10-Q for the quarter ended September 30, 2022, and Amgen's most recent filings with the SEC, including its Quarterly Report on Form 10-Q for the quarter ended September 30, 2022, and any subsequent reports on Form 10-K, Form 10-Q or Form 8-K filed with the SEC by the Company or Amgen from time to time and available at www.sec.gov. These documents can be accessed on the Company's web page at https://ir.horizontherapeutics.com/financial-information/sec-filings or on Amgen's web page at https://investors.amgen.com/financials/sec-filings.

The forward-looking statements included in this Announcement are made only as of the date hereof. Neither the Company nor Amgen assumes any obligation to, and neither the Company nor Amgen intends to, update these forward-looking statements, except as required by applicable Law.

**RESPONSIBILITY STATEMENT REQUIRED BY THE IRISH TAKEOVER RULES**

The Company Directors accept responsibility for the information contained in this Announcement relating to the Company, the Company Group and the Company Directors and members of their immediate families, related trusts and persons connected with them and for the Company Amgen Statements (as defined below), except for the statements made by Amgen in respect of the Company (the "**Amgen Company Statements**"). To the best of the knowledge and belief of the Company Directors (who have taken all reasonable care to ensure that such is the case), the information contained in this Announcement for which they accept responsibility is in accordance with the facts and does not omit anything likely to affect the import of such information.

The Amgen Directors and Acquirer Sub Directors accept responsibility for the information contained in this Announcement other than that relating to the Company, the Company Group and the Company Directors and members of their immediate families, related trusts and persons connected with them but including the Amgen Company Statements (for which the Amgen Directors and the Acquirer Sub Directors accept responsibility), and other than the statements made by the Company in respect of Amgen (the "**Company Amgen Statements**"). To the best of the knowledge and belief of the Amgen Directors (who have taken all reasonable care to ensure such is the case), the information contained in this Announcement for which they accept responsibility is in accordance with the facts and does not omit anything likely to affect the import of such information.

**IMPORTANT NOTICES RELATING TO FINANCIAL ADVISORS**

Morgan Stanley & Co. LLC, acting through its affiliate Morgan Stanley & Co. International plc (together, "**Morgan Stanley**"), which is authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority in the United Kingdom, is acting exclusively for the Company as financial advisor and for no one else in relation to the matters referred to in this Announcement. In connection with such matters, Morgan Stanley and its directors, officers, employees and agents will not regard any other person as its client, nor will it be responsible to anyone other than the Company for providing the

protections afforded to their clients or for providing advice in connection with the matters described in this Announcement or any matter referred to herein.

J.P. Morgan Securities LLC ("**J.P. Morgan**"), which is a registered broker dealer with the SEC, is acting as financial advisor to the Company in connection with the Acquisition. In connection with the Acquisition, J.P. Morgan and its directors, officers, employees and agents will not regard any other person as its client, nor will it be responsible to anyone other than the Company for providing the protections afforded to clients of J.P. Morgan or for giving advice in connection with the Acquisition or any matter referred to herein.

PJT Partners, which is a registered broker dealer with the SEC, is acting exclusively for Amgen and for no-one else in connection with the matters referred to in this Announcement and will not be responsible to anyone other than Amgen for providing the protections afforded to clients of PJT Partners nor for providing advice in relation to the matters referred to in this Announcement. Neither PJT Partners nor any of its subsidiaries, branches or affiliates owes or accepts any duty, liability or responsibility whatsoever (whether direct or indirect, whether in contract, in tort, under statute or otherwise) to any person who is not a client of PJT Partners in connection with this Announcement, any statement contained herein or otherwise.

Citigroup, which is a registered broker-dealer regulated by the SEC, is acting exclusively for Amgen and for no one else in connection with the Acquisition and other matters described in this announcement, and will not be responsible to anyone other than Amgen for providing the protections afforded to clients of Citigroup nor for providing advice in connection with the Acquisition or any other matters referred to in this announcement. Neither Citigroup nor any of its affiliates, directors or employees owes or accepts any duty, liability or responsibility whatsoever (whether direct or indirect, consequential, whether in contract, in tort, under statute or otherwise) to any person who is not a client of Citigroup in connection with this announcement, any statement contained herein, the Acquisition or otherwise.

**DISCLOSURE REQUIREMENTS OF THE IRISH TAKEOVER RULES**

Under the provisions of Rule 8.3(a) of the Irish Takeover Rules, any person who is 'interested' in 1% or more of any class of 'relevant securities' of the Company must make an 'opening position disclosure' following the commencement of the 'offer period'. An 'opening position disclosure' must contain the details contained in Rule 8.6(a) of the Irish Takeover Rules, including, among other things, details of the person's 'interests' and 'short positions' in any 'relevant securities' of the Company. An 'opening position disclosure' by a person to whom Rule 8.3(a) applies must be made by no later than 3:30 p.m. (E.T.) on the day falling ten 'business days' following the commencement of the 'offer period'. Relevant persons who deal in any 'relevant securities' prior to the deadline for making an 'opening position disclosure' must instead make a 'dealing' disclosure as described below.

Under the provisions of Rule 8.3(b) of the Irish Takeover Rules, if any person is, or becomes, 'interested' in 1% or more of any class of 'relevant securities' of the Company, that person must publicly disclose all 'dealings' in any 'relevant securities' of the Company during the 'offer period', by not later than 3:30 p.m. (E.T.) on the 'business day' following the date of the relevant transaction.

If two or more persons co-operate on the basis of any agreement either express or tacit, either oral or written, to acquire an 'interest' in 'relevant securities' of the Company or any securities exchange offeror, they will be deemed to be a single person for the purpose of Rule 8.3 of the Irish Takeover Rules.

In addition, each of the Company and any offeror must make an 'opening position disclosure' by no later 12:00 noon (E.T.) on the date falling ten 'business days' following the commencement of the 'offer

period' or the announcement that first identifies a securities exchange offeror, as applicable, and disclose details of any 'dealings' by it or any person 'acting in concert' with it in 'relevant securities' during the 'offer period', by no later than 12:00 noon (E.T.) on the business day following the date of the transaction (see Rules 8.1, 8.2 and 8.4).

A disclosure table, giving details of the companies in whose 'relevant securities' 'opening position' and 'dealings' should be disclosed can be found on the Irish Takeover Panel's website at www.irishtakeoverpanel.ie.

'Interests' in securities arise, in summary, when a person has long economic exposure, whether conditional or absolute, to changes in the price of securities. In particular, a person will be treated as having an 'interest' by virtue of the ownership or control of securities, or by virtue of any option in respect of, or derivative referenced to, securities.

Terms in quotation marks are defined in the Irish Takeover Rules, which can be found on the Irish Takeover Panel's website. If you are in any doubt as to whether or not you are required to disclose an 'opening position' or 'dealing' under Rule 8, please consult the Irish Takeover Panel's website at www.irishtakeoverpanel.ie or contact the Irish Takeover Panel on telephone number +353 1 678 9020.

**NO PROFIT FORECAST / QUANTIFIED FINANCIAL BENEFIT STATEMENT / ASSET VALUATIONS**

No statement in this Announcement is intended to constitute a profit forecast or quantified financial benefit statement for any period, nor should any statements be interpreted to mean that earnings or earnings per share will necessarily be greater or lesser than those for the relevant preceding financial periods for Amgen or the Company. No statement in this Announcement constitutes an asset valuation.

**PUBLICATION ON WEBSITE**

In accordance with Rule 26.1 of the Irish Takeover Rules, a copy of this Announcement will be available on the Company's website at www.horizontherapeutics.com and Amgen's website at www.amgen.com by no later than 12:00 noon (E.T.) on the business day following this Announcement. Neither the content of any such website nor the content of any other website accessible from hyperlinks on such website is incorporated into, or forms part of, this Announcement.

**REQUESTING HARD COPY INFORMATION**

Any Company Shareholder may request a copy of this Announcement and / or any information incorporated by reference into this Announcement in hard copy form by writing to the Company, Attn: Investor Relations, 70 St. Stephen's Green, Dublin 2, D02 E2X4, Ireland or by contacting Tina Ventura, Investor Relations, via email at ir@horizontherapeutics.com. Any written requests must include the identity of the Company Shareholder and any hard copy documents will be posted to the address of the Company Shareholder provided in the written request. If you have received this Announcement in electronic form, a hard copy of this Announcement and / or any document or information incorporated by reference into this Announcement will not be provided unless such a request is made.

**RIGHT TO SWITCH TO A TAKEOVER OFFER**

Amgen reserves the right to elect to implement the Acquisition by way of a Takeover Offer for the entire issued and to be issued ordinary share capital of the Company as an alternative to the Scheme, subject to the provisions of the Irish Takeover Rules and the Transaction Agreement and with the Irish Takeover Panel's consent whether or not the Scheme Document has been posted. In such event, the Acquisition would be implemented on the same terms (subject to appropriate amendments), so far as are applicable,

as those which would apply to the Scheme and subject to the amendments referred to in Appendix 3 (*Conditions of the Acquisition and the Scheme*) to this Announcement and in the Transaction Agreement.

If Amgen exercises its right to implement the Acquisition by way of a Takeover Offer as an alternative to the Scheme, subject to the provisions of the Irish Takeover Rules and the Transaction Agreement and with the Irish Takeover Panel's consent, such offer would be made in compliance with applicable U.S. Laws and regulations, including the registration requirements of the U.S. Securities Act and the tender offer rules under the U.S. Exchange Act and any applicable exemptions provided thereunder.

**ROUNDING**

Certain figures included in this Announcement have been subjected to rounding adjustments. Accordingly, any figures shown for the same category presented in different tables may vary slightly and figures shown as totals in certain tables may not be an arithmetic aggregation of the figures that precede them.

**OVERSEAS JURISDICTIONS**

The release, publication or distribution of this Announcement in or into jurisdictions other than Ireland and the United States may be restricted by Law and therefore any persons who are subject to the Law of any jurisdiction other than Ireland and the United States should inform themselves about, and observe, any applicable legal or regulatory requirements. In particular the ability of persons who are not resident in Ireland or the United States, to vote their Company Shares with respect to the Scheme at the Scheme Meeting, or to appoint another person as proxy to vote at the Scheme Meeting on their behalf, may be affected by the Laws of the relevant jurisdictions in which they are located. Any failure to comply with the applicable legal or regulatory requirements may constitute a violation of the Laws of any such jurisdiction. To the fullest extent permitted by applicable Law, the Company and Amgen and persons involved in the Acquisition disclaim any responsibility or liability for the violation of such restrictions by any person.

This Announcement has been prepared for the purpose of complying with the Laws of Ireland and the Irish Takeover Rules and the information disclosed may not be the same as that which would have been disclosed if this Announcement had been prepared in accordance with the Laws of jurisdictions outside of Ireland.

Unless otherwise determined by Amgen or required by the Irish Takeover Rules, and permitted by applicable Law and regulation, the Acquisition will not be made available directly or indirectly, in, into or from any Restricted Jurisdiction and no person may vote in favour of the Acquisition by any use, means, instrumentality or facilities from within a Restricted Jurisdiction or any other jurisdiction if to do so would constitute a violation of the Laws of that jurisdiction.

Copies of this Announcement and any formal documentation relating to the Acquisition will not be and must not be, directly or indirectly, mailed or otherwise forwarded, distributed or sent in, into or from any Restricted Jurisdiction or any jurisdiction where to do so would violate the Laws of that jurisdiction and persons receiving such documents (including custodians, nominees and trustees) must not mail or otherwise forward, distribute or send them in or into or from any Restricted Jurisdiction. Doing so may render invalid any related purported vote in respect of the Acquisition. If the Acquisition is implemented by way of a Takeover Offer (unless otherwise permitted by applicable Law or regulation), the Takeover Offer may not be made, directly or indirectly, in or into or by use of the mails or any other means or instrumentality or facilities (including, without limitation, facsimile, email or other electronic transmission,

telex or telephone) of interstate or foreign commerce of, or any facility of a national, state or other securities exchange of any Restricted Jurisdiction and the Takeover Offer will not be capable of acceptance by any such use, means, instrumentality or facilities from within any Restricted Jurisdiction or any other jurisdiction if to do so would constitute a violation of the Laws of that jurisdiction.

Further details in relation to overseas shareholders will be contained in the Proxy Statement (which will include the Scheme Document).

**GENERAL**

This summary should be read in conjunction with, and is subject to, the full text of this Announcement (including its Appendices).

The Acquisition is subject to, *inter alia*, the terms and conditions of the Transaction Agreement and the terms and the satisfaction or waiver (as applicable) of the Conditions set out in Appendix 3 (*Conditions of the Acquisition and the Scheme*) to this Announcement. The Acquisition is also subject to the full terms and conditions which will be set out in the Scheme Document.

Appendix 1 (*Sources and Bases of Information*) contains further details of the sources of information and bases of calculations set out in this Announcement; Appendix 2 (*Definitions*) contains definitions of certain expressions used in this Announcement; Appendix 3 (*Conditions of the Acquisition and the Scheme*) contains the Conditions of the Acquisition and the Scheme; and Appendix 4 (*Transaction Agreement*) appends the Transaction Agreement.

The financial information included in this Announcement and to be included in the Scheme Document has or will be prepared in accordance with generally accepted accounting principles in the United States. The following non-GAAP financial measures have been included in this Announcement in relation to Amgen and the Combined Group:

- “free cash flow”, which is computed by subtracting capital expenditures from operating cash flow, each as determined in accordance with GAAP; and

- “non-GAAP EPS”, which is computed by taking non-GAAP net income and dividing it by the number of weighted-average shares of Amgen.

These non-GAAP financial measures are in addition to, not a substitute for, or superior to, measures of financial performance prepared in accordance with GAAP.

Be aware that addresses, electronic addresses and certain other information provided by Company Shareholders, holders of shares in Amgen, persons with information rights and other relevant persons for the receipt of communications from the Company, and / or Amgen may be exchanged between the Parties as required by the Irish Takeover Rules and applicable Law.

Any response in relation to the Acquisition should be made only on the basis of the information contained in the Scheme Document and the Proxy Statement or any document by which the Acquisition and the Scheme are made. Company Shareholders are advised to read carefully the formal documentation in relation to the Acquisition, including the Scheme Document once the Proxy Statement has been sent.

The Transaction Agreement contains representations and warranties made by and to the parties thereto as of specific dates. The statements embodied in those representations and warranties were made for purposes of the contract between the parties and may be subject to qualifications and limitations agreed by the parties in connection with negotiating the terms of that contract. In addition, certain

representations and warranties were made as of a specified date, may be subject to a contractual standard of materiality different from those generally applicable to investors, or may have been used for the purpose of allocating risk between the parties rather than establishing matters as facts.

If you are in any doubt about the contents of this Announcement or the action you should take, you are recommended to seek your own independent financial advice immediately from your appropriately authorised independent financial advisor.

***NOT FOR RELEASE, PUBLICATION OR DISTRIBUTION, IN WHOLE OR IN PART, IN, INTO OR FROM ANY JURISDICTION WHERE TO DO SO WOULD CONSTITUTE A VIOLATION OF THE RELEVANT LAWS OR REGULATIONS OF SUCH JURISDICTION***

***THIS ANNOUNCEMENT IS BEING MADE PURSUANT TO RULE 2.7 OF THE IRISH TAKEOVER RULES***

***FOR IMMEDIATE RELEASE***

***December 12, 2022***

**RECOMMENDED CASH OFFER**

**for**

**HORIZON THERAPEUTICS PLC**

**by**

**Pillartree Limited, a newly formed private limited company wholly owned by Amgen Inc.**

**to be implemented by way of a scheme of arrangement under Chapter 1 of Part 9 of the Companies Act 2014**

## 1. Introduction

The board of directors of Horizon Therapeutics plc (the "**Company**" or "**Horizon**") and the board of directors of Amgen Inc. ("**Amgen**") are pleased to announce that they have reached agreement on the terms of a cash offer for the Company by Pillartree Limited ("**Acquirer Sub**"), a newly formed private limited company wholly owned by Amgen, which is unanimously recommended by the Company Board and pursuant to which Acquirer Sub will acquire the entire issued and to be issued ordinary share capital of the Company.

## 2. The Acquisition

It is agreed that the Acquisition will be implemented by way of an Irish High Court-sanctioned scheme of arrangement under Chapter 1 of Part 9 of the Irish Companies Act (although Amgen reserves the right to effect the Acquisition by way of a Takeover Offer, subject to the terms of the Transaction Agreement, compliance with the Irish Takeover Rules and with the consent of the Irish Takeover Panel).

Under the terms of the Acquisition, which will be subject to the Conditions and other terms set out in this Announcement and to further terms to be set out in the Scheme Document, each Company Shareholder at the Scheme Record Time will be entitled to receive:

**$116.50 for each Company Share in cash**

The Acquisition represents:

- a premium of approximately 47.9% to the closing price of $78.76 per Company Share on November 29, 2022 (being the last closing price per Company Share prior to the Company's issuance of an announcement of a possible offer under Rule 2.4 of the Irish Takeover Rules); and

- a premium of approximately 19.7% to the closing price of $97.29 per Company Share on December 9, 2022.

The Acquisition values the entire issued and to be issued ordinary share capital of the Company at approximately $27.8 billion on a fully diluted basis and implies an enterprise value of approximately $28.3 billion.

**The sources and bases of information contained in this Announcement to calculate the implied value of the Acquisition are set out in Appendix 1 (*Sources and Bases of Information*).**

## 3. Company Background to and Reasons for Recommending the Acquisition

The Company is a biotechnology company focused on the discovery, development and commercialisation of medicines that address critical needs for people impacted by rare, autoimmune and severe inflammatory diseases. The Company Board, together with the Company's senior management, and with the assistance of its financial and legal advisors, regularly reviews the Company's strategic and financial prospects on a standalone basis in light of developments in the Company's business, the sectors in which it operates and the economy and financial markets generally.

Following receipt of an unsolicited proposal from Sanofi to acquire the entire issued and to be issued ordinary share capital of the Company for cash (the "**Unsolicited Proposal**"), the Company Board, together with the Company's senior management, and with the assistance of its outside advisors, met to discuss the Unsolicited Proposal and determined that the offer price was insufficient to warrant any substantive discussions or allow access to any due diligence and rejected the proposal. During the next 28 days, Sanofi made two subsequent proposals at higher prices before the Company Board determined that the proposed price was sufficient to permit Sanofi to receive a management presentation and access to limited additional information in order to support Sanofi making a further enhanced offer. The Company Board also determined that the best way to maximise shareholder value would be to approach other potential bidders and authorised the Company's senior management and its financial advisors to contact three additional global biopharmaceutical companies that it believed may be interested in a potential acquisition of the Company and would have the financial means to complete an acquisition of this size, with the outreach subject to obtaining the relevant consents of the Irish Takeover Panel. After obtaining the consents, the Company's financial advisors contacted the three parties, comprised of Amgen and two other global pharmaceutical companies (one such company being referred to herein as Company A and the other being Janssen Global Services, LLC ("**JNJ**")), and conveyed that the Company had received an unsolicited proposal to be acquired on an expeditious timetable. All three parties expressed an interest in receiving a management presentation and engaging in due diligence to determine whether they would submit a proposal. The Company entered into confidentiality agreements with all four parties and gave each of the parties management presentations in a two day period and responded to preliminary due diligence questions. Subsequently, Amgen submitted an initial bid and Sanofi increased its proposed price. Company A declined to submit a proposal. JNJ indicated that it would continue to evaluate the information shared in the management presentation and would make a determination after a board meeting as to whether to submit a bid.

On November 29, 2022, the Company released an announcement of a possible offer under Rule 2.4 of the Irish Takeover Rules, confirming that it was in highly preliminary discussions with Amgen, Sanofi and JNJ. On December 2, 2022, Sanofi and Amgen each released a statement as required by Rule 2.12 of the Irish Takeover Rules confirming that any offer, if made, would be in cash. Subsequently, JNJ conveyed to the Company's financial advisors that it had decided not to submit a proposal and issued a statement on December 3, 2022 under Rule 2.8 of the Irish Takeover Rules that it did not intend to make an offer for the Company.

After considering the initial proposal from Amgen and the revised proposal from Sanofi, the Company Board authorised the Company to provide both parties with access to a due diligence data room and to provide both parties with a draft transaction agreement. After Amgen and Sanofi submitted proposed changes to the draft transaction agreement and identified required regulatory approvals, the Company Board authorised its financial advisors to send a process letter to both parties indicating that final offers with confirmation of funds certain should be submitted with a negotiated transaction agreement by no later than December 9, 2022. At the instruction of the Company and its financial advisors, each of Amgen and Sanofi submitted its revised offer to acquire the Company on December 9, 2022. On December 10, 2022, the Company continued to discuss the offers from Sanofi and Amgen and received additional offers from Amgen and Sanofi at higher prices. Following the discussions with Amgen and Sanofi, the Company Board met on December 10, 2022, together with the Company's senior management and financial and legal advisors, to consider proposed terms of the best and final proposals from each of Amgen and Sanofi. The Company Board, together with the Company's senior management, and with the assistance of its financial and legal advisors, reviewed the key legal and financial terms of each of the proposals from each of Amgen and Sanofi. Following discussions, the Company Board determined that the final proposal from Amgen was superior to the proposal from Sanofi and the near final drafts of the transaction agreements submitted by each party were substantially comparable. Following discussions, the Company Board unanimously determined to accept the terms of the offer received from Amgen of $116.50 per Company Share, resolving that such offer was in the best interests of the Company and the Company Shareholders, and thereby approved the Acquisition and resolved to recommend to the Company Shareholders that they approve the Acquisition.

The Company Board carefully considered the terms of the Acquisition and the other Transactions, consulted with Company senior management and its financial and legal advisors, and considered a number of factors, each of which is supportive of its unanimous decision to approve the Acquisition and the other Transactions and recommend the Transactions to the Company Shareholders.

The Company believes Amgen has the capacity to maximise the value of the Company's current portfolio and accelerate the ability for Horizon's medicines to reach more patients globally with increased global commercial scale as well as enhanced R&D and technology capabilities to rapidly advance the pipeline to find more therapies for patients who are underserved.

Further detail in respect of the background and reasons for recommending the Acquisition will be included in the Proxy Statement (which will include the Scheme Document).

**4. Amgen Background to and Reasons for the Acquisition**

Amgen believes there is a compelling strategic and financial rationale for undertaking the acquisition, which is expected to deliver the following benefits:

***The Acquisition adds first-in-class / best-in-class innovative medicines that fit well with Amgen's portfolio and strategic vision***

- Since its founding in 2005, the Company has successfully built a robust business with continued growth potential. TEPEZZA, KRYSTEXXA and UPLIZNA are innovative biologic medicines with impressive benefits that are reaching a growing number of patients suffering from serious diseases. These three early life cycle products collectively generated $2.0 billion of sales through the first nine months of 2022.

- Amgen's long-term strategy includes a focus on first-in-class and best-in-class innovative therapeutics that treat grievous illness, and on delivering those medicines to more patients around the world.

- The Company's focus and products align well with Amgen's long-term growth strategy:

    - Amgen's growth reflects contributions from therapies with large addressable patient populations (such as cardiovascular disease, osteoporosis, psoriasis, and asthma), as well as therapies that address diseases with lower prevalence (such as ANCA-associated vasculitis, immune thrombocytopenic purpura and acute lymphoblastic leukemia) that are adjacent to Amgen's core therapeutic areas. TEPEZZA and KRYSTEXXA are a strong fit with the latter category and help to further diversify the Combined Group's revenue outlook.

    - TEPEZZA has significant growth potential in key ex-U.S. markets such as Europe and Japan, which complements Amgen's international growth strategy.

    - The Company's R&D efforts include significant lifecycle management expansion for currently marketed products, along with an innovative mid- to late-stage pipeline with opportunities for advancement of novel programs in disease areas such as myasthenia gravis, IgG4-related disease, systemic lupus erythematosus, lupus nephritis and Sjogren's Syndrome.

***Amgen's global scale and 20-year history in commercializing inflammation therapies can accelerate growth of the Company's portfolio***

- TEPEZZA is mechanistically rooted in inflammation and KRYSTEXXA is commercially aligned with Enbrel and TAVNEOS, given the shared rheumatology prescriber base. UPLIZNA targets an autoimmune disorder (neuromyelitis optica spectrum disorder), which is also consistent with Amgen's expertise in inflammation.

- The Company also has recent product approvals in Europe and Japan, where Amgen has existing commercial platforms that could be quickly leveraged and augmented with specialised sales force where needed. Globally, including the U.S., the Combined Group will benefit from Amgen's experience in commercial operations such as access, medical, patient support, and overall scale/expertise in marketing and sales.

***The Company's platform strategies in R&D and manufacturing can be strengthened by Amgen's 40-year history in biologics, development and manufacturing***

- Amgen has the scale, expertise, and resources to advance the Company's pipeline molecules with speed, and to support global registration and commercialisation. Given the Company's focus on biologics, Amgen also has the process development expertise to assist the Company in delivering lifecycle management programs focused on new formulations and new routes of administration. Amgen is also an industry leader in biologics manufacturing, which provides opportunities for manufacturing cost efficiencies while helping to ensure the Combined Group's products will reach "every patient, every time". Further, Amgen has considerable expertise in drug delivery systems that benefit the patient experience.

***Strong financial profile with non-GAAP EPS accretion from 2024 and significant cash flow generation enabling continued attractive shareholder payouts and investment in innovation***

- The robust free cash flow generated by the Combined Group (approximately $10 billion over the twelve months through Q3 2022)[1] will enable de-levering following Completion, while continuing to support investment in the Combined Group's pipeline and commercial brands.

- The Acquisition is expected to be accretive to Amgen's revenue and non-GAAP earnings per share from 2024. Amgen is not providing or updating 2022 or 2030 guidance as a result of the Acquisition.

- Amgen's goal is to maintain a strong investment grade credit profile with debt leverage that is in-line with current levels by the end of 2025. Amgen expects to support this goal with over $10 billion of debt retirement through that period.

- Amgen remains committed to growing its annual dividend over time.

- The Acquisition is expected to deliver annual pre-tax cost synergies of at least $500 million by the end of the third fiscal year following Completion.

**5. Company Board Recommendation**

The Company Board, which has been so advised as to the financial terms of the Acquisition by Morgan Stanley, which has rendered a fairness opinion, considers the terms of the Acquisition to be fair and reasonable. In providing its financial advice, Morgan Stanley has taken into account the commercial assessments of the Company Directors. Morgan Stanley is providing independent financial advice to the Company Board for the purposes of Rule 3 of the Irish Takeover Rules. The Company Board has unanimously determined that the Transaction Agreement and the Transactions, including the Scheme, are advisable for, fair to and in the best interests of, the Company Shareholders. Accordingly, the Company Board unanimously recommends that Company Shareholders vote in favour of the Scheme Resolutions and the Required EGM Resolutions or, if the Acquisition is implemented by a Takeover Offer, to accept or procure acceptance of such Takeover Offer.

**6. The Scheme Process**

It is agreed that the Acquisition will be implemented by means of an Irish High Court-sanctioned scheme of arrangement between the Company and Company Shareholders under Chapter 1 of Part 9 of the Irish Companies Act, pursuant to which Acquirer Sub will acquire the entire issued and to be issued ordinary share capital of the Company and each Company Shareholder will receive the Consideration.

The Company Shares will be acquired pursuant to the Acquisition fully paid, non-assessable and free from all liens, charges, equities, encumbrances, rights of pre-emption and any other third party rights of any nature whatsoever and together with all rights attaching thereto, including without limitation voting rights and the right to receive and retain in full all dividends and other distributions (if any) announced, declared, made or paid with a record date on or after the Scheme Record Time.

To become effective, the Scheme will require, among other things, the approval of:

[1] For the twelve months through Q3 2022, Amgen GAAP operating cash flow of $9.88 billion less Amgen capital expenditures of $883 million plus Horizon GAAP operating cash flow of $1.37 billion less Horizon capital expenditures of $56 million = ~$10 billion

- the Scheme Meeting Resolution by a majority in number of members of each class of Company Shareholders (including as may be directed by the Irish High Court pursuant to Section 450(5) of the Irish Companies Act) present and voting either in person or by proxy at the Scheme Meeting (or at any adjournment or postponement of such meeting) representing, at the Voting Record Time, at least 75% in value of Company Shares of that class held by such Company Shareholders present and voting either in person or by proxy at the Scheme Meeting; and

- the Required EGM Resolutions being duly passed by the Company Shareholders at the EGM (or any adjournment or postponement thereof).

The Scheme Document will include full details of the Scheme, together with notices of the Scheme Meeting and the EGM and the expected timetable, and will specify the action to be taken by Company Shareholders.

Following the passing of the approvals noted above being obtained and the satisfaction or (where applicable) waiver of the other conditions to the consummation of the Scheme, the sanction of the Irish High Court will also be required in order for the Scheme to become effective.

Assuming the above requirements are satisfied, and the other Conditions, as described in more detail in paragraph 7 (*The Conditions*) below, have been satisfied or waived (where applicable), the Scheme will become effective upon delivery to the Irish Registrar of Companies of a copy of the Court Order.

Upon the Scheme becoming effective, the Scheme will be binding on all Company Shareholders, irrespective of whether or not they attended or voted at the Scheme Meeting or the EGM and share certificates, if any, in respect of Company Shares will cease to be valid and entitlements to Company Shares held within DTC will be cancelled.

Any Company Shares issued before the Scheme Record Time will be subject to the terms of the Scheme. One of the EGM Resolutions to be proposed at the EGM will, amongst other matters, provide that the Company's memorandum and articles of association be amended to incorporate provisions requiring any Company Shares issued after the Scheme Record Time (other than to Amgen or its affiliates), for example, due to the crystallisation of Company Options or Company Share Awards, to either be subject to the terms of the Scheme or acquired by Amgen and / or its affiliates on the same terms as the Acquisition (other than terms as to timings and certain formalities). The inclusion of these provisions in the Company's memorandum and articles of association will prevent any person (other than Amgen or its affiliates) holding Company Shares immediately after the Effective Time.

Subject to satisfaction or waiver (as applicable) of the Conditions, the Acquisition is expected to be completed in the first half of 2023.

If the Scheme does not become effective on or before the End Date (as may be extended pursuant to the Transaction Agreement), it will lapse and the Acquisition will not proceed (unless the Company, Amgen and Acquirer Sub otherwise agree and the Irish Takeover Panel otherwise consents).

**7. The Conditions**

As well as being conditional upon the Company Shareholder Approval and the Scheme becoming effective, as described in paragraph 6 (*The Scheme Process*) above, the Acquisition is also subject to receipt of certain other conditions as summarised below.

The Acquisition is subject to the satisfaction or waiver (as applicable) of the Conditions, which are set-out in full in Appendix 3 (*Conditions of the Acquisition and the Scheme*) to this Announcement, including, in summary:

- the approval by the Company Shareholders of the Scheme;
- the sanction of the Scheme by the Irish High Court;
- the receipt of required antitrust clearances in the United States, Austria and Germany and the receipt of required foreign investment clearances in France, Germany, Denmark and Italy;
- a copy of the Court Order having been delivered to the Irish Registrar of Companies;
- the Transaction Agreement not having been terminated in accordance with its terms;
- the accuracy of each of the Parties' representations and warranties, subject to certain materiality and material adverse effect exceptions;
- the performance by each Party, in all material respects, with all of such Party's covenants and agreements under the Transaction Agreement; and
- the absence of a Company Material Adverse Effect that is continuing.

It is expected that the Proxy Statement (which will contain the Scheme Document), containing further information relating to the implementation of the Acquisition, the full terms and conditions of the Scheme, notices of the Scheme Meeting and the EGM, will be made available to Company Shareholders as promptly as reasonably practicable after securing approval of the Irish High Court to send the Scheme Document to Company Shareholders and, for information only, to Company Equity Award Holders.

The Proxy Statement will contain important information about the Acquisition (including the Scheme), the Transaction Agreement, the Scheme Meeting and the EGM.

**8. About the Company Group**

The Company is a public limited company registered in Ireland and whose shares are admitted to trading on Nasdaq under the ticker "HZNP".

The Company is a global biotechnology company headquartered in Dublin, Ireland and focused on the discovery, development and commercialization of medicines that address critical needs for people impacted by rare, autoimmune and severe inflammatory diseases. The Company has 12 marketed medicines and a pipeline with more than 20 development programs. The Company has offices or a presence across four continents and more than 2,000 employees. For more information about the Company Group, see www.horizontherapeutics.com.

**9. About Amgen and Acquirer Sub**

Acquirer Sub is a private limited company incorporated in Ireland established for the sole purpose of implementing the Acquisition and is a wholly owned subsidiary of Amgen. As of the date of this Announcement, the entire issued ordinary share capital of Acquirer Sub is owned by Amgen.

Amgen is a highly focused biotechnology company committed to unlocking the potential of biology for patients suffering from serious illnesses by discovering, developing, manufacturing and delivering innovative human therapeutics. This approach begins by using tools like advanced human genetics to unravel the complexities of disease and understand the fundamentals of human biology. Amgen focuses on areas of high unmet medical need and leverages its expertise to strive for solutions that improve health outcomes and dramatically improve people's lives. A biotechnology pioneer since 1980, Amgen has grown to be one of the world's leading independent biotechnology companies. Amgen is one of the 30 companies that comprise the Dow Jones Industrial Average and is also part of the Nasdaq-100 index.

For more information about Amgen, see www.amgen.com.

**10. Effect of the Scheme on Company Share Plans**

In accordance with Rule 15 of the Irish Takeover Rules, Amgen will make appropriate proposals to participants of the Company Share Plans in relation to the options and awards under the Company Share Plans. Participants will be contacted separately, at or as soon as possible after the time of publication of the Scheme Document, regarding the effect of the Acquisition on their options and awards under the Company Share Plans and the relevant details will be summarised in the Scheme Document.

The Scheme will extend to any Company Shares which are unconditionally allotted or issued at or before the Scheme Record Time, including those allotted or issued to satisfy the exercise of options or vesting of awards under the Company Share Plans.

**11. Management, Employees and Locations**

As described in paragraph 4 (*Amgen Background to and Reasons for the Acquisition*) above, Amgen believes there is a compelling strategic rationale for undertaking the Acquisition, which would enable the Combined Group to deliver first-in-class medicines to many more patients suffering from serious illness. Amgen recognises the skills, knowledge and experience of the Company's employees and is excited to work with them to further enhance the therapeutic offerings, and grow the value, of the Combined Group in the longer term.

Following this Announcement, to the extent permitted by applicable antitrust rules, Amgen intends to engage with the Company's senior management in integration planning, involving a review of the Company's business. While the parameters of the review have not yet been finalised, Amgen expects that it will involve evaluating the best way in which to further develop, as part of the Combined Group following Completion, the three existing strategic goals of the Company, which are to (i) maximise the value of its on-market rare disease medicines through commercial execution and clinical investment; (ii) expand its R&D pipeline through significant internal investment and external business development; and (iii) build a global presence in targeted international markets.

In addition, the review will also involve assessing how best to combine the operations of Amgen and the Company in order to achieve some of the expected benefits of the Acquisition (including the cost synergies identified in paragraph 4 (*Amgen Background to and Reasons for the Acquisition*) above. The review would aim to identify and assess integration benefit opportunities, and to ascertain those areas in which a reduction in the number of employees of the Combined Group may be appropriate. Amgen has not yet carried out the review referred to above and, except as described below, has not reached any conclusions as to its likely outcome nor made any decisions in relation to specific actions that may be taken in relation to the integration of Amgen and the Company.

Amgen understands the importance of innovation to the Company's business, and intends to continue to invest in and develop its R&D capabilities as part of the Combined Group following Completion, with a view to ensuring in particular that the Company's existing pipeline of preclinical and clinical development programmes can continue to expand.

***Management and employees***

Amgen attributes significant value to the Company Group's management and employees, whose ongoing contribution will be key to growing the value of the enlarged business of Amgen in the longer term.

Amgen will safeguard the existing employment rights, including pension rights, of the Company Group's management and employees in accordance with applicable Law. Amgen does not envisage any material change in the conditions of employment of the management and employees of the Combined Group as a result of the Acquisition. Under the Transaction Agreement, Amgen has given certain assurances in relation to the continuation of certain existing compensation and employment benefit arrangements of the Company Group's employees following the Acquisition. Further details in this regard will be included in the Scheme Document.

While Amgen has not yet begun to carry out the review of the Company's business referred to above and has not reached any conclusions as to its likely outcome or made any decisions in relation to any specific actions that may be taken as a result of this evaluation in relation to employees of the Combined Group, Amgen currently anticipates that there will be some operational and administrative restructuring of the Company Group required following Completion. This will also facilitate the integration of the two businesses as part of the Combined Group. In particular, certain central corporate and support functions, including those relating to the Company's status as a listed company, may no longer be required on a standalone basis or may be reduced in scope. No decisions have been made as to the number of employees or the roles and locations that may be affected. Amgen also currently anticipates that there may be opportunities for the Combined Group to realise cost efficiencies from leveraging Amgen's global scale, systems and processes across various functions.

The non-executive directors of the Company intend to resign as directors of the Company with effect from Completion.

***Headquarters, locations of business and fixed assets***

Following Completion, the global headquarters of the Combined Group will be located at Amgen's current global headquarters in Thousand Oaks, California.

Amgen will, as part of its review of the Company's business referred to above, evaluate the consolidation of some or all of the Company's locations of business into Amgen's global headquarters in Thousand Oaks, California and other locations of Amgen across the United States and worldwide, including functions currently undertaken at the Company's current global headquarters in Dublin.

No material changes are envisaged by Amgen with respect to the redeployment of the Company's fixed asset base.

***Trading facilities***

The Company Shares are currently listed on the Nasdaq Global Select Market and, as set out in paragraph 12 (*Delisting of Company Shares*) below, the Company Shares will be delisted from the Nasdaq Global Select Market and deregistered, as promptly as practicable after the Effective Time, and in any event no more than ten days after the Completion Date.

**12. Delisting of Company Shares**

Prior to the Completion Date, the Company will cooperate with Amgen and use its reasonable best efforts to take, or cause to be taken, all actions, and do or cause to be done all things, reasonably necessary, proper or advisable on its part under applicable Laws and rules and policies of Nasdaq to enable the delisting of the Company Shares from Nasdaq and the deregistration of the Company Shares under the Exchange Act as promptly as practicable after the Effective Time. After the cancellation of the listing and trading of Company Shares on the Nasdaq Global Select Market, the Company will be re-registered as a private limited company.

**13. Transaction Agreement**

The Company, Amgen and Acquirer Sub have entered into the Transaction Agreement, dated December 11, 2022, which contains certain assurances, obligations and commitments in relation to the implementation of the Acquisition, including provisions in relation to the conduct of the Company's business between the date of this Announcement and the Effective Date. A copy of the Transaction Agreement is appended to this Announcement at Appendix 4 (*Transaction Agreement*) and a summary of the principal terms of the Transaction Agreement will be set out in the Proxy Statement (which will include the Scheme Document).

The Transaction Agreement provides that neither the Company Directors nor the Company shall make a Company Change of Recommendation for a Company Superior Proposal or a Company Intervening Event or terminate the Transaction Agreement in order to substantially concurrently enter into a definitive agreement providing for a Company Superior Proposal, unless, among other things, prior to taking such action, the Company has notified Amgen in writing at least four Business Days before taking such action, that the Company intends to take such action, and has negotiated in good faith with Amgen regarding any proposal by Amgen to amend the Transaction Agreement.

The Transaction Agreement includes provisions pursuant to which the Company has agreed to reimburse to Amgen in certain circumstances set out below for an amount equal to all documented, specific, quantifiable third party costs and expenses incurred, directly or indirectly, by Amgen and / or any member of the Amgen Group, or on its behalf, for the purposes of, in preparation for, or in connection with the Acquisition, including third party costs and expenses incurred in connection with exploratory work carried out in contemplation of and in connection with the Acquisition, legal, financial and commercial due diligence, the arrangement of financing and the engagement of third party representatives to assist in the process (the "**Expenses Reimbursement Provisions**"). The gross amount payable by the Company to Amgen for such reimbursement shall not, in any event, exceed $278,404,301 (being 1% of the total value of the issued and to be issued ordinary share capital of the Company that is the subject of the Acquisition (excluding, for the avoidance of doubt, any interest in such share capital held by Amgen or any person Acting in Concert with Amgen)).

If the Transaction Agreement is terminated pursuant to its terms, Amgen's receipt of such reimbursement payment (to the extent owed by the Company pursuant to the Transaction Agreement) and Amgen's right to seek specific performance will be the sole and exclusive remedies of the Amgen Parties and the Amgen Related Parties against any of the Company and its Affiliates and Company Related Parties, including for any failure to consummate the Transactions or any claims or actions under applicable Laws arising out of any breach, termination or failure by the Company and its Affiliates to perform any covenant or agreement in the Transaction Agreement.

The amount payable by the Company to Amgen under the Expenses Reimbursement Provisions will exclude any amounts in respect of VAT incurred by Amgen or any member of the Amgen Group attributable to such third party costs other than irrevocable VAT incurred by Amgen or its Subsidiaries.

The circumstances in which such payment will be made by the Company are, if the Transaction Agreement is terminated:

(a) by Amgen pursuant to a Change of Recommendation Termination; or

(b) by the Company pursuant to a Superior Proposal Termination; or

(c) all of the following occur:

(i) the Transaction Agreement is terminated (x) by Amgen pursuant to a Company Breach Termination as a result of a material breach or failure to perform any covenant or agreement in the Transaction Agreement described in Section 9.1(a)(iii)(A) of the Transaction Agreement that first occurred following the making of a Company Alternative Proposal of the type referred to in Section 9.2(b)(iii)(B) of the Transaction Agreement or (y) by Amgen or the Company pursuant to a Non Approval Termination but if such termination is by the Company at such time Amgen would be permitted to terminate the Transaction Agreement; and

(ii) prior to the Scheme Meeting, a Company Alternative Proposal was publicly disclosed or announced and not withdrawn (or, in the case of a Company Breach Termination as a result of a material breach or failure to perform any covenant or agreement in the Transaction Agreement, was made publicly or privately to the Company Board), or any Person shall have publicly announced an intention (whether or not conditional) to make a Company Alternative Proposal that has not been withdrawn (it being understood that, for purposes of Section 9.2(b)(iii)(B) of the Transaction Agreement, references to "*20%*" in the definition of Company Alternative Proposal shall be deemed to refer to "*50%*"); and

(iii) (x) a Company Alternative Proposal is consummated within 12 months after such termination, or (y) a definitive agreement providing for a Company Alternative Proposal is entered into within 12 months after such termination and is subsequently consummated.

Morgan Stanley as Rule 3 Advisor to the Company and the Company have confirmed in writing to the Panel that, in the opinion of Morgan Stanley and the Company (respectively), in the context of the note to Rule 21.2 of the Irish Takeover Rules and the Acquisition, the Expenses Reimbursement Provisions are in the best interests of the Company Shareholders. The Irish Takeover Panel has consented to the Company entering into the Expenses Reimbursement Provisions.

The Transaction Agreement provides that, upon termination of the Transaction Agreement under certain circumstances relating to the failure to obtain applicable Antitrust Laws or Foreign Investment Laws Clearances prior to the End Date, Amgen will pay the Company a reverse termination fee of $974,415,054.

**14. Financing of the Acquisition**

Amgen has entered into a Bridge Credit Agreement, dated December 12, 2022, for an aggregate amount of $28.5 billion, by and among Amgen, Citibank N.A., as administrative agent, Bank of America, N.A., as syndication agent, and Citibank, N.A. and Bank of America, N.A. as lead arrangers and book runners, and the other banks from time to time party thereto to finance, together with Amgen's own cash

resources, the Acquisition. Further information on the financing of the Acquisition will be set out in the Scheme Document.

PJT Partners, lead financial advisor to Amgen, is satisfied that sufficient resources are available to Acquirer Sub to satisfy in full the consideration payable to Company Shareholders under the terms of the Acquisition.

**15. Other Acquisition-related Arrangements**

The Company and Amgen entered into a confidentiality agreement on November 18, 2022, pursuant to which the Company and Amgen have undertaken, amongst other things, to: (a) keep confidential information relating to the Acquisition and not to disclose it to third parties (other than certain permitted parties) unless required by Law or regulation; and (b) use the confidential information for the sole purpose of evaluating and participating in discussions regarding the Acquisition. The agreement also includes standstill provisions, pursuant to which Amgen has agreed to certain restrictions in respect of dealings in Company Shares, solicitation or engagement in respect of competing transactions, subject to customary standstill termination provisions, for a period of 12 months.

**16. Tax**

Each holder of Company Shares is urged to consult his, her or its independent professional advisor regarding the tax consequences of the Transactions.

**17. Disclosure of Interests in Relevant Securities of the Company**

As of the close of business on December 9, 2022 (being the last Business Day prior to the date of this Announcement), the Robert A. Eckert Living Trust (a related trust of Robert A. Eckert, an Amgen Director) was interested in 86 Company Shares.

Save as described above, as of the close of business on December 9, 2022 (being the last Business Day prior to the date of this Announcement), none of Amgen or, so far as Amgen is aware, any person Acting in Concert with Amgen:

(a) had an interest in relevant securities of the Company;

(b) had any short position in relevant securities of the Company;

(c) had received an irrevocable commitment or letter of intent to accept the terms of the Acquisition in respect of relevant securities of the Company; or

(d) had borrowed or lent any Company Shares.

Furthermore, no arrangement to which Rule 8.7 of the Irish Takeover Rules applies exists between Amgen or the Company or a person Acting in Concert with Amgen or the Company in relation to Company Shares. For these purposes, an “arrangement to which Rule 8.7 of the Irish Takeover Rules applies” includes any indemnity or option arrangement, and any agreement or understanding, formal or informal, of whatever nature, between two or more persons relating to relevant securities which is or may be an inducement to one or more of such persons to deal or refrain from dealing in such securities.

**18. Section 3(7) of Appendix 4 Derogation**

Section 3(7) of Appendix 4 of the Irish Takeover Rules requires that, except with the consent of the Panel, and subject to Rule 2.11 of the Irish Takeover Rules, the Company must send the Scheme Document to Company Shareholders within 28 days of the announcement of a firm intention to make an offer, being this Announcement.

On December 9, 2022 the Panel agreed to grant a waiver of Section 3 (7) of Appendix 4 of the Rules.

There is a requirement to file the Proxy Statement (which will also include the Scheme Document) with the SEC in connection with the Scheme. The preparation of the Proxy Statement may take more than 28 days. Also, the SEC may elect to review the Proxy Statement. This review process will take no fewer than 10 days and may take a longer time to complete. Under SEC rules, the Proxy Statement may not be mailed to Company Shareholders until such review is complete. The Panel granted the derogation on the basis that the Scheme Document cannot be sent until the SEC's review of the Proxy Statement is completed. The Proxy Statement (which will also contain the Scheme Document) will be mailed to Company Shareholders as soon as practicable after a definitive Proxy Statement is filed with the SEC.

**19. Documents on display**

Copies of the following documents will, by no later than 12:00 noon (E.T.) on the business day following the date of this Announcement, be made available the Company's website www.horizontherapeutics.com and on Amgen's website www.amgen.com:

(a) the Leak Announcement;

(b) this Announcement;

(c) the Confidentiality Agreement; and

(d) the Transaction Agreement.

Neither the contents of the Company's website or the contents of Amgen's website, nor the contents of any other website accessible from hyperlinks on either such website, is incorporated into or forms part of, this Announcement.

**20. Rule 2.7(b)(xv) Statement**

Subject to the Transaction Agreement, Amgen will have the right to reduce the Consideration by the amount of any dividend (or other distribution) which is paid or becomes payable by the Company to Company Shareholders in addition to the Consideration.

**21. General**

The Transaction Agreement is governed by the Laws of the State of Delaware. However, the Acquisition and the Scheme, and matters related thereto (including matters related to the Irish Takeover Rules), shall, to the extent required by the Laws of Ireland, be governed by, and construed in accordance with, the Laws of Ireland. The interpretation of the duties of the Company Directors shall also be governed by, and construed in accordance with, the Laws of Ireland.

The Acquisition is subject to, *inter alia*, the terms and conditions of the Transaction Agreement and the terms and the satisfaction or waiver (as applicable) of the Conditions set out in Appendix 3 (*Conditions*

*of the Acquisition and the Scheme*) to this Announcement. The Acquisition is also subject to the full terms and conditions which will be set out in the Scheme Document.

Appendix 1 (*Sources and Bases of Information*) contains further details of the sources of information and bases of calculations set out in this Announcement; Appendix 2 (*Definitions*) contains definitions of certain expressions used in this Announcement; Appendix 3 (*Conditions of the Acquisition and the Scheme*) contains the Conditions of the Acquisition and the Scheme; and Appendix 4 (*Transaction Agreement*) appends the Transaction Agreement.

The financial information included in this Announcement and to be included in the Scheme Document has or will be prepared in accordance with generally accepted accounting principles in the United States. The following non-GAAP financial measures have been included in this Announcement in relation to Amgen and the Combined Group:

- "free cash flow", which is computed by subtracting capital expenditures from operating cash flow, each as determined in accordance with GAAP; and

- "non-GAAP EPS", which is computed by taking non-GAAP net income and dividing it by the number of weighted-average shares of Amgen.

These non-GAAP financial measures are in addition to, not a substitute for, or superior to, measures of financial performance prepared in accordance with GAAP.

Be aware that addresses, electronic addresses and certain other information provided by Company Shareholders, holders of shares in Amgen, persons with information rights and other relevant persons for the receipt of communications from the Company, and / or Amgen may be exchanged between the Parties as required by the Irish Takeover Rules and applicable Law.

This Announcement does not constitute a prospectus or prospectus equivalent document.

Any response in relation to the Acquisition should be made only on the basis of the information contained in the Scheme Document and the Proxy Statement or any document by which the Acquisition and the Scheme are made. Company Shareholders are advised to read carefully the formal documentation in relation to the Acquisition, including the Scheme Document once the Proxy Statement has been sent.

The Transaction Agreement contains representations and warranties made by and to the parties thereto as of specific dates. The statements embodied in those representations and warranties were made for purposes of the contract between the parties and may be subject to qualifications and limitations agreed by the parties in connection with negotiating the terms of that contract. In addition, certain representations and warranties were made as of a specified date, may be subject to a contractual standard of materiality different from those generally applicable to investors, or may have been used for the purpose of allocating risk between the parties rather than establishing matters as facts.

If you are in any doubt about the contents of this Announcement or the action you should take, you are recommended to seek your own independent financial advice immediately from your appropriately authorised independent financial advisor.

**Enquiries**

**Company**

| | |
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**NO OFFER OR SOLICITATION**

This Announcement is for information purposes only and is not intended to and does not constitute, or form part of, an offer, invitation or the solicitation of an offer or invitation to purchase, otherwise acquire, subscribe for, sell or otherwise dispose of any securities, or the solicitation of any vote or approval in any jurisdiction, pursuant to the Acquisition or otherwise, nor shall there be any sale, issuance or transfer of securities in any jurisdiction in contravention of applicable Law.

The Acquisition will be implemented by means of an Irish High Court-sanctioned scheme of arrangement on the terms provided for in the Scheme Document (or, if the Acquisition is implemented by way of a

Takeover Offer, the Takeover Offer Document), which will contain the full terms and conditions of the Acquisition, including details of how Company Shareholders may vote in respect of the Acquisition. Any decision in respect of, or other response to, the Acquisition, should be made only on the basis of the information contained in the Scheme Document (or if the Acquisition is implemented by way of a Takeover Offer, the Takeover Offer Document).

**IMPORTANT ADDITIONAL INFORMATION WILL BE FILED WITH THE SEC**

In connection with the Acquisition, the Company will file with the SEC a Proxy Statement (which will include the Scheme Document). The Proxy Statement will be mailed to Company Shareholders as of the record date to be established for voting at the Scheme Meeting or EGM. This Announcement is not a substitute for the Proxy Statement or any other document that the Company may file with the SEC or send to its shareholders in connection with the Acquisition. BEFORE MAKING ANY VOTING DECISION, HOLDERS OF COMPANY SHARES ARE URGED TO READ THE PROXY STATEMENT (INCLUDING THE SCHEME DOCUMENT) ANY AMENDMENTS OR SUPPLEMENTS THERETO AND OTHER RELEVANT DOCUMENTS FILED OR TO BE FILED WITH THE SEC IN CONNECTION WITH THE ACQUISITION, INCLUDING ANY DOCUMENTS INCORPORATED BY REFERENCE THEREIN, CAREFULLY AND IN THEIR ENTIRETY WHEN THEY BECOME AVAILABLE BECAUSE THEY WILL CONTAIN IMPORTANT INFORMATION ABOUT THE ACQUISITION, THE PARTIES TO THE SCHEME AND RELATED MATTERS.

Any vote in respect of the Scheme Meeting Resolution and the EGM Resolutions to approve the Acquisition, the Scheme or related matters, or other responses in relation to the Acquisition, should be made only on the basis of the information contained in the Proxy Statement (including the Scheme Document).

The Proxy Statement, if and when filed, as well as the Company's other public filings with the SEC, may be obtained without charge at the SEC's website at www.sec.gov and at the Company's website at https://ir.horizontherapeutics.com/financial-information/sec-filings. Company Shareholders and investors will also be able to obtain, without charge, a copy of the Proxy Statement (including the Scheme Document) and other relevant documents (when available) by directing a written request to the Company, Attn: Investor Relations, 70 St. Stephen's Green, Dublin 2, D02 E2X4, Ireland or by contacting Tina Ventura, Investor Relations, by email to ir@horizontherapeutics.com.

**PARTICIPANTS IN THE SOLICITATION**

The Company and certain of its directors, executive officers and employees may be deemed to be participants in the solicitation of proxies from Company Shareholders in connection with the Acquisition and any other matters to be voted on at the Scheme Meeting or the EGM. Information about the directors and executive officers of the Company, including a description of their direct or indirect interests, by security holdings or otherwise, is set forth in the Company's definitive proxy statement on Schedule 14A for its 2022 annual general meeting of shareholders, dated and filed with the SEC on March 17, 2022. Other information regarding the persons who may, under the rules of the SEC, be deemed to be participants in the solicitation of Company Shareholders, including a description of their direct or indirect interests, by security holdings or otherwise, will be set forth in the Proxy Statement (which will contain the Scheme Document) and other relevant materials to be filed with the SEC in

connection with the Acquisition. You may obtain free copies of these documents using the sources indicated above.

**CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING STATEMENTS**

This Announcement contains certain statements about the Company and Amgen that are or may be forward-looking statements which include, but are not limited to, statements regarding expected timing, completion and effects of the Acquisition. These forward-looking statements are subject to the safe harbor provisions under the U.S. Private Securities Litigation Reform Act of 1995. All statements other than statements of historical facts included in this Announcement may be forward-looking statements. Without limitation, forward-looking statements often include words such as “expect,” “anticipate,” “outlook,” “could,” “target,” “project,” “intend,” “plan,” “believe,” “seek,” “estimate,” “should,” “may,” “assume” and “continue” as well as variations of such words and similar expressions are intended to identify such forward-looking statements. The Company’s and Amgen’s expectations and beliefs regarding these matters may not materialise. Actual outcomes and results may differ materially from those contemplated by these forward-looking statements as a result of uncertainties, risks, and changes in circumstances, including but not limited to risks and uncertainties related to: the ability of the Parties to consummate the Acquisition in a timely manner or at all; the satisfaction (or waiver) of conditions to the consummation of the Acquisition, including with respect to the approval of Company Shareholders and required regulatory approvals; potential delays in consummating the Acquisition; the ability of the Company and Amgen to timely and successfully achieve the anticipated strategic benefits, synergies or opportunities expected as a result of the Acquisition; the successful integration of the Company into Amgen subsequent to Completion and the timing of such integration; the impact of changes in global, political, economic, business, competitive, market and regulatory forces; the impact of health pandemics, including the COVID-19 pandemic, on the Company’s or Amgen’s respective businesses; the occurrence of any event, change or other circumstance or condition that could give rise to the termination of the Transaction Agreement; adverse effects on the market price of the Company’s or Amgen’s securities and on the Company’s or Amgen’s operating results because of a failure to complete the Acquisition; the effect of the announcement or pendency of the Acquisition on the Company’s or Amgen’s business relationships, operating results and business generally; costs related to the Acquisition; and the outcome of any legal proceedings that may be instituted against the Company, Amgen Acquirer Sub or any of their respective directors or officers related to the Transaction Agreement or the Acquisition. Additional risks and uncertainties that could cause actual outcomes and results to differ materially from those contemplated by the forward-looking statements are included under the caption “Risk Factors” and elsewhere in the Company’s most recent filings with the SEC, including its Quarterly Report on Form 10-Q for the quarter ended September 30, 2022, and Amgen’s most recent filings with the SEC, including its Quarterly Report on Form 10-Q for the quarter ended September 30, 2022, and any subsequent reports on Form 10-K, Form 10-Q or Form 8-K filed with the SEC by the Company or Amgen from time to time and available at www.sec.gov. These documents can be accessed on the Company’s web page at https://ir.horizontherapeutics/financial-information.com/sec-filings or on Amgen’s web page at https://investorsamgen.com/financials/sec-filings.

The forward-looking statements included in this Announcement are made only as of the date hereof. Neither the Company nor Amgen assumes any obligation to, and neither the Company nor Amgen intends to, update these forward-looking statements, except as required by applicable Law.

**RESPONSIBILITY STATEMENT REQUIRED BY THE IRISH TAKEOVER RULES**

The Company Directors accept responsibility for the information contained in this Announcement relating to the Company, the Company Group and the Company Directors and members of their immediate families, related trusts and persons connected with them and for the Company Amgen

Statements (as defined below), except for the statements made by Amgen in respect of the Company (the "**Amgen Company Statements**"). To the best of the knowledge and belief of the Company Directors (who have taken all reasonable care to ensure that such is the case), the information contained in this Announcement for which they accept responsibility is in accordance with the facts and does not omit anything likely to affect the import of such information.

The Amgen Directors and Acquirer Sub Directors accept responsibility for the information contained in this Announcement other than that relating to the Company, the Company Group and the Company Directors and members of their immediate families, related trusts and persons connected with them but including the Amgen Company Statements (for which the Amgen Directors and the Acquirer Sub Directors accept responsibility), and other than the statements made by the Company in respect of Amgen (the "**Company Amgen Statements**"). To the best of the knowledge and belief of the Amgen Directors (who have taken all reasonable care to ensure such is the case), the information contained in this Announcement for which they accept responsibility is in accordance with the facts and does not omit anything likely to affect the import of such information.

**IMPORTANT NOTICES RELATING TO FINANCIAL ADVISORS**

Morgan Stanley & Co. LLC, acting through its affiliate Morgan Stanley & Co. International plc (together, "**Morgan Stanley**"), which is authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority in the United Kingdom, is acting exclusively for the Company as financial advisor and for no one else in relation to the matters referred to in this Announcement. In connection with such matters, Morgan Stanley and its directors, officers, employees and agents will not regard any other person as its client, nor will it be responsible to anyone other than the Company for providing the protections afforded to their clients or for providing advice in connection with the matters described in this Announcement or any matter referred to herein.

J.P. Morgan Securities LLC ("**J.P. Morgan**"), which is a registered broker dealer with the SEC, is acting as financial advisor to the Company in connection with the Acquisition. In connection with the Acquisition, J.P. Morgan and its directors, officers, employees and agents will not regard any other person as its client, nor will it be responsible to anyone other than the Company for providing the protections afforded to clients of J.P. Morgan or for giving advice in connection with the Acquisition or any matter referred to herein.

PJT Partners, which is a registered broker dealer with the SEC, is acting exclusively for Amgen and for no-one else in connection with the matters referred to in this Announcement and will not be responsible to anyone other than Amgen for providing the protections afforded to clients of PJT Partners nor for providing advice in relation to the matters referred to in this Announcement. Neither PJT Partners nor any of its subsidiaries, branches or affiliates owes or accepts any duty, liability or responsibility whatsoever (whether direct or indirect, whether in contract, in tort, under statute or otherwise) to any person who is not a client of PJT Partners in connection with this Announcement, any statement contained herein or otherwise.

Citigroup, which is a registered broker-dealer regulated by the SEC, is acting exclusively for Amgen and for no one else in connection with the Acquisition and other matters described in this announcement, and will not be responsible to anyone other than Amgen for providing the protections afforded to clients of Citigroup nor for providing advice in connection with the Acquisition or any other matters referred to in this announcement. Neither Citigroup nor any of its affiliates, directors or employees owes or accepts any duty, liability or responsibility whatsoever (whether direct or indirect, consequential, whether in contract, in tort, under statute or otherwise) to any person who is not a client of Citigroup in connection with this announcement, any statement contained herein, the Acquisition or otherwise.

**DISCLOSURE REQUIREMENTS OF THE IRISH TAKEOVER RULES**

Under the provisions of Rule 8.3(a) of the Irish Takeover Rules, any person who is 'interested' in 1% or more of any class of 'relevant securities' of the Company must make an 'opening position disclosure' following the commencement of the 'offer period'. An 'opening position disclosure' must contain the details contained in Rule 8.6(a) of the Irish Takeover Rules, including, among other things, details of the person's 'interests' and 'short positions' in any 'relevant securities' of the Company. An 'opening position disclosure' by a person to whom Rule 8.3(a) applies must be made by no later than 3:30 pm (E.T.) on the day falling ten 'business days' following the commencement of the 'offer period'. Relevant persons who deal in any 'relevant securities' prior to the deadline for making an 'opening position disclosure' must instead make a 'dealing' disclosure as described below.

Under the provisions of Rule 8.3(b) of the Irish Takeover Rules, if any person is, or becomes, 'interested' in 1% or more of any class of 'relevant securities' of the Company, that person must publicly disclose all 'dealings' in any 'relevant securities' of the Company during the 'offer period', by not later than 3:30 p.m. (E.T.) on the 'business day' following the date of the relevant transaction.

If two or more persons co-operate on the basis of any agreement either express or tacit, either oral or written, to acquire an 'interest' in 'relevant securities' of the Company or any securities exchange offeror, they will be deemed to be a single person for the purpose of Rule 8.3 of the Irish Takeover Rules.

In addition, each of the Company and any offeror must make an 'opening position disclosure' by no later 12:00 noon (E.T.) on the date falling ten 'business days' following the commencement of the 'offer period' or the announcement that first identifies a securities exchange offeror, as applicable, and disclose details of any 'dealings' by it or any person 'acting in concert' with it in 'relevant securities' during the 'offer period', by no later than 12:00 noon (E.T.) on the business day following the date of the transaction (see Rules 8.1, 8.2 and 8.4).

A disclosure table, giving details of the companies in whose 'relevant securities' 'opening position' and 'dealings' should be disclosed can be found on the Irish Takeover Panel's website at www.irishtakeoverpanel.ie.

'Interests' in securities arise, in summary, when a person has long economic exposure, whether conditional or absolute, to changes in the price of securities. In particular, a person will be treated as having an 'interest' by virtue of the ownership or control of securities, or by virtue of any option in respect of, or derivative referenced to, securities.

Terms in quotation marks are defined in the Irish Takeover Rules, which can be found on the Irish Takeover Panel's website. If you are in any doubt as to whether or not you are required to disclose an 'opening position' or 'dealing' under Rule 8, please consult the Irish Takeover Panel's website at www.irishtakeoverpanel.ie or contact the Irish Takeover Panel on telephone number +353 1 678 9020.

**NO PROFIT FORECAST / QUANTIFIED FINANCIAL BENEFIT STATEMENT / ASSET VALUATIONS**

No statement in this Announcement is intended to constitute a profit forecast or quantified financial benefit statement for any period, nor should any statements be interpreted to mean that earnings or earnings per share will necessarily be greater or lesser than those for the relevant preceding financial periods for Amgen or the Company. No statement in this Announcement constitutes an asset valuation.

**PUBLICATION ON WEBSITE**

In accordance with Rule 26.1 of the Irish Takeover Rules, a copy of this Announcement will be available on the Company's website at www.horizon.therapeutics.com and Amgen's website at www.amgen.com by no later than 12 noon (E.T.) on the business day following this Announcement. Neither the content of any such website nor the content of any other website accessible from hyperlinks on such website is incorporated into, or forms part of, this Announcement.

**REQUESTING HARD COPY INFORMATION**

Any Company Shareholder may request a copy of this Announcement and / or any information incorporated by reference into this Announcement in hard copy form by writing to the Company, Attn: Investor Relations, 70 St. Stephen's Green, Dublin 2, D02 E2X4, Ireland, or by contacting Tina Ventura, Investor Relations, via email at ir@horizontherapeutics.com. Any written requests must include the identity of the Company Shareholder and any hard copy documents will be posted to the address of the Company Shareholder provided in the written request. If you have received this Announcement in electronic form, a hard copy of this Announcement and / or any document or information incorporated by reference into this Announcement will not be provided unless such a request is made.

**RIGHT TO SWITCH TO A TAKEOVER OFFER**

Amgen reserves the right to elect to implement the Acquisition by way of a Takeover Offer for the entire issued and to be issued ordinary share capital of the Company as an alternative to the Scheme, subject to the provisions of the Irish Takeover Rules and the Transaction Agreement and with the Irish Takeover Panel's consent, whether or not the Scheme Document has been posted. In such event, the Acquisition would be implemented on the same terms (subject to appropriate amendments), so far as are applicable, as those which would apply to the Scheme and subject to the amendments referred to in Appendix 3 (*Conditions of the Acquisition and the Scheme*) to this Announcement and in the Transaction Agreement.

If Amgen exercises its right to implement the Acquisition by way of a Takeover Offer as an alternative to the Scheme, subject to the provisions of the Irish Takeover Rules and the Transaction Agreement and with the Irish Takeover Panel's consent, such offer would be made in compliance with applicable U.S. Laws and regulations, including the registration requirements of the U.S. Securities Act and the tender offer rules under the U.S. Exchange Act and any applicable exemptions provided thereunder.

**ROUNDING**

Certain figures included in this Announcement have been subjected to rounding adjustments. Accordingly, any figures shown for the same category presented in different tables may vary slightly and figures shown as totals in certain tables may not be an arithmetic aggregation of the figures that precede them.

**OVERSEAS JURISDICTIONS**

The release, publication or distribution of this Announcement in or into jurisdictions other than Ireland and the United States may be restricted by Law and therefore any persons who are subject to the Law of any jurisdiction other than Ireland and the United States should inform themselves about, and observe, any applicable legal or regulatory requirements. In particular the ability of persons who are not resident in Ireland or the United States, to vote their Company Shares with respect to the Scheme at the Scheme Meeting, or to appoint another person as proxy to vote at the Scheme Meeting on their behalf, may be affected by the Laws of the relevant jurisdictions in which they are located. Any failure

to comply with the applicable legal or regulatory requirements may constitute a violation of the Laws of any such jurisdiction. To the fullest extent permitted by applicable Law, the Company and Amgen and persons involved in the Acquisition disclaim any responsibility or liability for the violation of such restrictions by any person.

This Announcement has been prepared for the purpose of complying with the Laws of Ireland and the Irish Takeover Rules and the information disclosed may not be the same as that which would have been disclosed if this Announcement had been prepared in accordance with the Laws of jurisdictions outside of Ireland.

Unless otherwise determined by Amgen or required by the Irish Takeover Rules, and permitted by applicable Law and regulation, the Acquisition will not be made available directly or indirectly, in, into or from any Restricted Jurisdiction and no person may vote in favour of the Acquisition by any use, means, instrumentality or facilities from within a Restricted Jurisdiction or any other jurisdiction if to do so would constitute a violation of the Laws of that jurisdiction.

Copies of this Announcement and any formal documentation relating to the Acquisition will not be and must not be, directly or indirectly, mailed or otherwise forwarded, distributed or sent in, into or from any Restricted Jurisdiction or any jurisdiction where to do so would violate the Laws of that jurisdiction and persons receiving such documents (including custodians, nominees and trustees) must not mail or otherwise forward, distribute or send them in or into or from any Restricted Jurisdiction. Doing so may render invalid any related purported vote in respect of the Acquisition. If the Acquisition is implemented by way of a Takeover Offer (unless otherwise permitted by applicable Law or regulation), the Takeover Offer may not be made, directly or indirectly, in or into or by use of the mails or any other means, instrumentality or facilities (including, without limitation, facsimile, email or other electronic transmission, telex or telephone) of interstate or foreign commerce of, or any facility of a national, state or other securities exchange of any Restricted Jurisdiction and the Takeover Offer will not be capable of acceptance by any such use, means, instrumentality or facilities from within any Restricted Jurisdiction or any other jurisdiction if to do so would constitute a violation of the Laws of that jurisdiction.

Further details in relation to overseas shareholders will be contained in the Proxy Statement (which will include the Scheme Document).

**RULE 2.12 – RELEVANT SECURITIES IN ISSUE**

In accordance with Rule 2.12 of the Irish Takeover Rules, the Company confirms that, as of December 9, 2022 (being the latest practicable date prior to the publication of this Announcement), its issued ordinary share capital is comprised of 227,346,959 ordinary shares, nominal value $0.0001 per share (the "**Ordinary Shares**") and 40,000 deferred ordinary shares of €1.00 each. The Company has 384,366 Ordinary Shares which are held as treasury shares. The Ordinary Shares are admitted to trading on the Nasdaq Global Select Market under the ticker symbol "HZNP". The International Securities Identification Number for these securities is IE00BQPVQZ61.

The Company confirms that as of December 9, 2022, there were outstanding options to purchase up to 4,997,294 Ordinary Shares and outstanding restricted stock units and performance stock units conferring on their holders vested or unvested rights to convert into, or receive, up to an aggregate of 5,491,118 Ordinary Shares and incremental restricted stock units to be issued of 2,550,000 Ordinary Shares.

## APPENDIX 1

## SOURCES AND BASES OF INFORMATION

1) The historical share price for the Company has been sourced from the Nasdaq website.

2) The value of the Acquisition is based upon the Consideration due under the terms of the Acquisition and on the basis of the issued and to be issued ordinary share capital of the Company referred to in paragraph 3 below.

3) The entire issued and to be issued ordinary share capital (fully diluted share capital) of the Company as of the close of business on December 9, 2022 (being the last practicable date prior to the release of this Announcement), calculated on the basis of:

    a. the number of issued Shares, being 227,346,959 Company shares, with 384,366 Ordinary Shares which are held as treasury shares;

    b. 1,909,313 issued Company PSUs;

    c. 3,581,805 issued Company RSUs;

    d. 2,550,000 incremental ordinary course grants to be issued by the Company; and

    e. 3,969,938 Company Shares which may be issued on or after the date of this Announcement to satisfy the exercise of Company Options under the treasury stock method, based on a weighted average price of $23.95.

4) Save where otherwise stated, financial and other information concerning the Company has been extracted from audited financial results of the Company.

5) As of 30 September, 2022 the Company has gross, financial debt of $2.6 billion, cash and cash equivalents of $2.1 billion, and net financial debt of $0.5 billion.

## APPENDIX 2

## DEFINITIONS

The following definitions apply throughout this Announcement unless the context otherwise requires:

"**Acquirer Sub**" means Pillartree Limited, a private limited company incorporated in Ireland with registered number 730855.

"**Acquirer Sub Board**" means the board of directors of Acquirer Sub.

"**Acquirer Sub Directors**" means the members of the Acquirer Sub Board.

"**Acquisition**" means the proposed offer by Acquirer Sub to acquire the entire issued, and to be issued ordinary share capital of the Company in accordance with the terms of the Transaction Agreement, to be effected by means of the Scheme or, should Amgen elect, and subject to the provisions of the Transaction Agreement and Irish Takeover Rules and the consent of the Irish Takeover Panel, by means of a Takeover Offer, and, where the context admits any subsequent revision, variation, extension or renewal thereof.

"**Acting in Concert**" has the meaning given to that term in the Irish Takeover Panel Act.

"**Affiliate**" means, in relation to any Person, any other Person that, directly or indirectly, controls, is controlled by, or is under common control with, such first person (as used in this definition, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of management or policies of a Person, whether through the ownership of securities or partnership or other ownership interests, by Contract or otherwise and the terms "controlled" and "controlling" shall have correlative meanings).

"**Amgen**" means Amgen Inc., a Delaware corporation.

"**Amgen Board**" means the board of directors of Amgen.

"**Amgen Common Stock**" means shares of common stock, $0.0001 par value, of Amgen.

"**Amgen Directors**" means the members of the Amgen Board.

"**Amgen Group**" means Amgen and its Subsidiaries.

"**Amgen Parties**" means Amgen and Acquirer Sub and "**Amgen Party**" means either Amgen or Acquirer Sub (as the context requires).

"**Amgen Related Parties**" has the meaning ascribed to it in the Transaction Agreement.

"**Announcement**" means this Announcement issued pursuant to Rule 2.7 of the Irish Takeover Rules for the purposes of the Acquisition.

"**Antitrust Laws**" means the Sherman Act of 1890, the Clayton Act of 1914, the Federal Trade Commission Act of 1914, the HSR Act and all other federal, state and foreign applicable Laws in effect from time to time that are designed or intended to prohibit, restrict or regulate actions having the purpose or effect of monopolization or restraint of trade.

"**Burdensome Condition**" has the meaning ascribed to it in the Transaction Agreement.

"**Business Day**" means any day, other than a Saturday, Sunday or a day on which banks in Ireland or in New York are authorised or required by applicable Laws to be closed.

"**Change of Recommendation Termination**" has the meaning ascribed to it in the Transaction Agreement.

"**Citigroup**" means Citigroup Global Markets Inc.

"**Combined Group**" means the enlarged group following Completion comprising the Amgen Group and the Company Group.

"**Clearances**" means all consents, clearances, approvals, permissions, licenses, variances, exemptions, authorizations, acknowledgements, permits, nonactions, Orders and waivers to be obtained from, and all registrations, applications, notices and filings to be made with or provided to, any Governmental Entity in connection with the implementation of the Scheme or the Acquisition.

"**Company**" means Horizon Therapeutics plc, an Irish public limited company with registered number 507678.

"**Company Alternative Proposal**" means any bona fide proposal or offer (including non-binding proposals or offers) from any Person or Group, other than Amgen, its controlled Affiliates or any of its Concert Parties, relating to any (i) direct or indirect acquisition (whether in a single transaction or a series of related transactions) of assets of the Company or any of its Subsidiaries (including equity securities of Subsidiaries) equal to 20% or more of the consolidated assets of the Company, or to which 20% or more of the revenues or earnings of the Company on a consolidated basis are attributable for the most recent fiscal year for which audited financial statements are then available, (ii) direct or indirect acquisition (including by scheme of arrangement or takeover offer) or issuance (whether in a single transaction or a series of related transactions) of 20% or more of any class of equity or voting securities of the Company, (iii) scheme of arrangement, tender offer, takeover offer or exchange offer that, if consummated, would result in a Person or Group beneficially owning 20% or more of any class of equity or voting securities of the Company, or (iv) scheme of arrangement, merger, consolidation, share exchange, business combination, joint venture, reorganization, recapitalization or similar transaction involving the Company or any of its Subsidiaries, under which a Person or Group, or, in the case of clause (B) below, the shareholders or equityholders of any Person or Group would, directly or indirectly, (A) acquire assets equal to 20% or more of the consolidated assets of the Company, or to which 20% or more of the revenues or earnings of the Company on a consolidated basis are attributable for the most recent fiscal year for which audited financial statements are then available, or (B) immediately after giving effect to such transactions, beneficially own 20% or more of any class of equity or voting securities of the Company or the surviving or resulting Person (including any parent Person) in such transaction.

"**Company Approval Time**" means the time of the receipt of the Company Shareholder Approval.

"**Company Board**" means the board of directors of the Company.

"**Company Board Recommendation**" means the unanimous recommendation of the Company Board that the Company Shareholders vote to approve the Scheme Meeting Resolution and the Required EGM Resolutions (or if Acquirer Sub effects the Acquisition as

a Takeover Offer, the unanimous recommendation of the Company Board that Company Shareholders accept the Takeover Offer).

"**Company Breach Termination**" means termination of the Transaction Agreement and the Acquisition (and any transactions contemplated by the Transaction Agreement) by Amgen if the Company shall have breached or failed to perform in any material respect any of its covenants or other agreements contained in the Transaction Agreement or if any of its representations or warranties set out in the Transaction Agreement are inaccurate, which breach, failure to perform or inaccuracy (1) would result in a failure of Condition 4.2 or Condition 4.3 and (2) is not reasonably capable of being cured by the End Date or, if curable, is not cured by the earlier of (x) the End Date and (y) 30 days following written notice by Amgen thereof.

"**Company Change of Recommendation**" means the Company's (i) withholding, withdrawal or qualification, amendment or modification in any manner adverse to Amgen, the Company Board Recommendation, if applicable, (ii) failure to include the Company Board Recommendation in the Scheme Document or the Proxy Statement, (iii) recommending, adopting or approving or publicly proposing to recommend, adopt or approve any Company Alternative Proposal or (iv) failure to reaffirm the Company Board Recommendation in a statement complying with Rule 14d-9 or Rule 14e-2(a) under the Exchange Act with regard to a Company Alternative Proposal or in connection with such action by the close of business on the 10th Business Day after the commencement of such Company Alternative Proposal under Rule 14d-9 or Rule 14e-2(a).

"**Company Directors**" means the members of the Company Board.

"**Company Disclosure Schedule**" has the meaning ascribed to that term in the Transaction Agreement.

"**Company Equity Awards**" means the Company Options, the Company RSU Awards and the Company PSU Awards.

"**Company Equity Award Holders**" means the holders of the Company Equity Awards.

"**Company Group**" means the Company and its Subsidiaries.

"**Company Intervening Event**" means any material event, fact, change, effect, development or occurrence arising or occurring after the date of the Transaction Agreement and prior to the Company Approval Time that (i) was not known or reasonably foreseeable, or the material consequences of which were not known or reasonably foreseeable, in each case to the Company Board as of or prior to the date of the Transaction Agreement, and (ii) does not relate to (a) any Company Alternative Proposal or consequence thereof, (b) Amgen or any of its Subsidiaries, or (c) any change in the market price or trading volume of the Company Shares or the fact that the Company meets or exceeds any internal or analysts' expectations or projections of the results of operations of the Company Group (it being understood that the underlying causes of such change or fact shall not be excluded by this clause (c)).

"**Company Material Adverse Effect**" means any event, change, effect, development or occurrence that, individually or together with any other event, change, effect, development or occurrence, (a) would prevent, materially delay or materially impair the ability of the Company to consummate the Acquisition or (b) has had or would reasonably be expected to have a material adverse effect on the condition (financial or otherwise), business, assets,

liabilities or results of operations of the Company Group, taken as a whole; *provided* that, solely for the purposes of clause (b), no event, change, effect, development or occurrence to the extent resulting from or arising out of any of the following shall be deemed to constitute a Company Material Adverse Effect or shall be taken into account in determining whether there has been, or would reasonably be expected to be, a Company Material Adverse Effect: (i) any decline in the market price or change in trading volume of the Company Shares; (ii) any event, change, effect, development or occurrence directly resulting from the announcement or pendency of the Transactions (other than for purposes of any representation or warranty contained in Section 6.1(u)(ii) and Section 6.1(v) of the Transaction Agreement but subject to corresponding disclosures in the Company Disclosure Schedule); (iii) any event, change, effect, development or occurrence in the industries and jurisdictions in which the Company Group operates or in the U.S. or global economy generally or other general business, financial or market conditions in the U.S. or globally, except in each case to the extent that the Company Group, taken as a whole, is adversely affected disproportionately relative to the other participants in such industries or the U.S. or the global economy generally, as applicable, and then only to the extent of such disproportionate impact; (iv) any event, change, effect, development or occurrence arising directly or indirectly from or otherwise relating to fluctuations in the value of any currency, except to the extent that the Company Group, taken as a whole, is adversely affected disproportionately relative to the other participants in such industries or the economy generally, as applicable, and then only to the extent of such disproportionate impact; (v) any event, change, effect, development or occurrence arising directly or indirectly from or otherwise relating to any act of terrorism, war, national or international calamity or any other similar event (other than cyberattacks), except to the extent that such event, circumstance, change or effect disproportionately affects the Company Group, taken as a whole, relative to other participants in the industries in which the Company Group operates or in the U.S. or global economy generally, as applicable, and then only to the extent of such disproportionate impact; (vi) any epidemic, pandemic (including COVID-19), disease outbreak or other public health-related event, hurricane, tornado, flood, earthquake, tsunamis, tornadoes, mudslides, fires or other natural disaster or other force majeure event, or the escalation or worsening thereof, except to the extent that the Company Group, taken as a whole, is adversely affected disproportionately relative to other participants in the industries in which the Company Group operates or in the U.S. or global economy generally, as applicable, and then only to the extent of such disproportionate impact; (vii) the failure of any member of the Company Group to meet internal or analysts' expectations or projections of the results of operations of the Company Group; (viii) any adverse effect arising directly from or otherwise directly relating to any action taken by the Company Group at the written direction of Amgen or any action specifically required pursuant to the terms of the Transaction Agreement to be taken by the Company (except for any obligation to operate in the ordinary course of business); (ix) any event, change, effect, development or occurrence arising directly or indirectly from or otherwise relating to any change in, or any compliance with, any applicable Laws or GAAP (or interpretations of any applicable Laws or GAAP), except to the extent that the Company Group, taken as a whole, is adversely affected disproportionately relative to the other participants in such industries or the U.S. or global economy generally, as applicable, and then only to the extent of such disproportionate impact; or (x) any FDA or similar (in the U.S. or globally) regulatory, manufacturing, safety or clinical event, change, effect, development or occurrence relating to any Company Product (but excluding the loss of any manufacturing license or the loss of marketing authorisation for any Company Product); it being understood that the exceptions in clauses (i) and (vii) shall not prevent or otherwise affect a determination that the underlying cause of any such decline or failure referred to therein (if not

otherwise expressly excluded under any of the exceptions provided by clauses (ii) through (vi) or (viii) through (x) hereof) is a Company Material Adverse Effect.

"**Company Options**" means all options to purchase Company Shares granted pursuant to Company Share Plans.

"**Company Products**" means all products or product candidates that are being researched, tested, developed, commercialized, manufactured, sold or distributed by any member of the Company Group and all products or product candidates, if any, with respect to which any member of the Company Group has royalty rights.

"**Company PSU Awards**" means all restricted stock units payable in Company Shares or whose value is determined with reference to the value of Company Shares with performance-based vesting or delivery requirements granted pursuant to the Company Share Plans.

"**Company Related Parties**" has the meaning ascribed to it in the Transaction Agreement.

"**Company RSU Awards**" means all restricted stock units payable in Company Shares or whose value is determined with reference to the value of Company Shares granted pursuant to the Company Share Plans other than any Company PSU Award.

"**Company Share Award**" means the Company PSU Awards and the Company RSU Awards.

"**Company Share Plans**" means, collectively, the 2011 Equity Incentive Plan, as amended, the Amended and Restated 2014 Equity Incentive Plan, the 2014 Non-Employee Equity Plan, as amended, the Amended and Restated 2018 Equity Incentive Plan, the 2020 Employee Share Purchase Plan, and the Amended and Restated 2020 Equity Incentive Plan, as amended, including any sub-plans thereto.

"**Company Shareholder Approval**" means (i) the approval of the Scheme by a majority in number of members of each class of the Company Shareholders (including as may be directed by the Irish High Court pursuant to Section 450(5) of the Irish Companies Act) representing, at the Voting Record Time, at least 75% in value of the Company Shares of that class held by the Company Shareholders who are members of that class and that are present and voting either in person or by proxy, at the Scheme Meeting (or at any adjournment or postponement of such meeting) and (ii) the Required EGM Resolutions being duly passed by the requisite majorities of the Company Shareholders at the EGM (or at any adjournment or postponement of such meeting).

"**Company Shareholders**" means the registered holders of Company Shares.

"**Company Shares**" means the ordinary shares of the Company, nominal value $0.0001 per share.

"**Company Superior Proposal**" means any bona fide, written Company Alternative Proposal (with all references to "20%" in the definition of the Company Alternative Proposal being deemed to be references to "50%") on terms that the Company Board determines in good faith, after consultation with its financial advisor and outside legal counsel, (a) is more favorable to the Company Shareholders (in their capacity as such) from a financial point of view than the Acquisition and (b) is reasonably expected to be consummated in accordance with its terms, in the case of each of clauses (a) and (b), taking into account all the financial,

legal, regulatory and other terms and conditions of the Company Alternative Proposal that the Company Board considers to be appropriate (including the expected timing of consummation, any governmental or other approval requirements, and availability of necessary financing).

"**Completion**" means the completion of the Acquisition.

"**Completion Date**" means the date of the completion of the Acquisition.

"**Concert Parties**" means such Persons as are deemed to be Acting in Concert with Amgen pursuant to Rule 3.3 of Part A of the Irish Takeover Rules.

"**Conditions**" means the conditions to the Scheme and the Acquisition set out in Appendix 3 (*Conditions of the Acquisition and the Scheme*) of this Announcement and to be set out in the Scheme Document, and "**Condition**" means any one of the Conditions.

"**Confidentiality Agreement**" means the confidentiality agreement between the Company and Amgen dated November 18, 2022.

"**Consideration**" means $116.50 in cash per Company Share.

"**Court Order**" means the Order or Orders of the Irish High Court sanctioning the Scheme under Section 453 of the Irish Companies Act.

"**DTC**" means the relevant system to facilitate the transfer of title to shares in uncertificated form in respect of which the Depository Trust & Clearing Corporation is the operator.

"**Effective Date**" means the date on which the Scheme becomes effective in accordance with its terms or, if the Acquisition is implemented by way of a Takeover Offer, the date on which the Takeover Offer has become (or has been declared) unconditional in all respects in accordance with the provisions of the Takeover Offer Document and the Irish Takeover Rules.

"**Effective Time**" means the time on the Effective Date at which the Court Order is delivered to the Registrar of Companies or, if the Acquisition is implemented by way of a Takeover Offer, the time on the Effective Date at which the Takeover Offer becomes (or is declared) unconditional in all respects in accordance with the provisions of the Takeover Offer Documents and the Irish Takeover Rules.

"**EGM**" means the extraordinary general meeting of the Company Shareholders (and any adjournment or postponement thereof) to be convened in connection with the Scheme, expected to be held as soon as the preceding Scheme Meeting shall have been concluded (it being understood that if the Scheme Meeting is adjourned or postponed, the EGM shall be correspondingly adjourned or postponed).

"**EGM Resolutions**" means, collectively, the following resolutions to be proposed at the EGM: (i) an ordinary resolution to approve the Scheme and to authorise the Company Board to take all such action as it considers necessary or appropriate to implement the Scheme and (ii) a special resolution amending the Company Memorandum and Articles of Association in accordance with Section 4.3 of the Transaction Agreement (the resolutions described in the foregoing clauses (i) and (ii), the "***Required EGM Resolutions***"); (iii) an ordinary resolution that any motion by the chairperson of the Company Board to adjourn or

postpone the EGM, or any adjournments or postponements thereof, to another time and place if necessary or appropriate to solicit additional proxies if there are insufficient votes at the time of the EGM to approve the Scheme or any of the Required EGM Resolutions to be approved; and (iv) any other resolutions as the Company reasonably determines to be (A) required under applicable Laws or (B) otherwise necessary or desirable for the purposes of implementing the Acquisition as have been approved by Amgen (such approval not to be unreasonably withheld, conditioned or delayed).

"**End Date**" means June 12, 2023; *provided, however*, that in the event that on the original End Date, one or more of paragraphs 3.1, 3.2 or 3.3 of the Conditions (with respect to paragraph 3.3, only if the failure of such Condition to have been satisfied as of such date is an Order or Law under any Antitrust Law or Foreign Investment Law in connection with or in respect of any matter involving Antitrust Law or Foreign Investment Law) have not been satisfied, and on such date, all of the other Conditions (other than (a) the paragraphs 2.3 and 2.4 of the Conditions or (b) any other Condition that by its nature can only be satisfied on the Sanction Date or, in the alternative to (a) and (b) where the Acquisition is implemented by Takeover Offer, any other condition that by its nature can only be satisfied by no later than the latest date upon which the Takeover Offer may be declared unconditional in all respects) have been satisfied or waived (or remain capable of being satisfied or waived), then the End Date shall be automatically extended without further action by the Parties until September 12, 2023 (the "**First Extended End Date**") (and in the case of such extension, any reference to the End Date in the Transaction Agreement shall be a reference to the First Extended End Date); provided, further, that in the event that on the First Extended End Date, one or more of the paragraphs 3.1, 3.2 or 3.3 of the Conditions (with respect to paragraph 3.3, only if the failure of such Condition to have been satisfied as of such date is an Order or Law under any Antitrust Law or Foreign Investment Law in connection with or in respect of any matter involving Antitrust Law or Foreign Investment Law) have not been satisfied, and on such date, all of the other Conditions (other than (a) the Conditions set out in paragraphs 2.3 and 2.4 of the Conditions or (b) any other Condition that by its nature can only be satisfied on the Sanction Date or, in the alternative to (a) and (b) where the Acquisition is implemented by Takeover Offer, any other condition that by its nature can only be satisfied by no later than the latest date upon which the Takeover Offer may be declared unconditional in all respects) have been satisfied or waived (or remain capable of being satisfied or waived), then the First Extended End Date shall be automatically extended without further action by the Parties until December 12, 2023 (the "**Second Extended End Date**") (and in the case of such extension, any reference to the End Date in the Transaction Agreement shall be a reference to the Second Extended End Date).

"**Foreign Investment Laws**" means all applicable Laws (other than Antitrust Laws) in effect from time to time that are designed or intended to prohibit, restrict or regulate actions by foreigners to acquire interests in or control over domestic equities, securities, entities, assets, land or other holdings for reasons of national security or other public policy.

"**GAAP**" means U.S. generally accepted accounting principles.

"**Government Official**" means (i) any official, officer, employee, or representative of, or any Person acting in an official capacity for or on behalf of, any Governmental Entity, (ii) any political party, party official or candidate for political office or (iii) any company, business, enterprise or other entity owned or controlled by any Person described in the foregoing clause (i) or (ii) of this definition.

"**Governmental Entity**" means any United States, Irish or other foreign or supranational, federal, state or local governmental commission, board, body, division, ministry, political subdivision, bureau or other regulatory authority or agency, including courts and other judicial bodies, or any competition, antitrust, foreign investment or supervisory body, central bank, public international organization or other governmental, trade or regulatory agency or body, securities exchange or any self-regulatory body or authority, including any instrumentality or entity designed to act for or on behalf of the foregoing, in each case, in any jurisdiction, including, the Irish Takeover Panel, the Irish High Court and the SEC.

"**HSR Act**" means the United States Hart-Scott-Rodino Antitrust Improvements Act of 1976.

"**Irish Companies Act**" means the Companies Act 2014 of Ireland, all enactments which are to be read as one with, or construed or read together as one with, the Companies Act 2014 and every statutory modification and re-enactment thereof for the time being in force.

"**Irish High Court**" means the High Court of Ireland.

"**Irish Registrar of Companies**" means the Registrar of Companies in Dublin, Ireland.

"**Irish Takeover Panel Act**" means the Irish Takeover Panel Act 1997.

"**Irish Takeover Rules**" means the Irish Takeover Panel Act 1997, Takeover Rules, 2022.

"**Law**" means any federal, state, local, foreign or supranational law, statute, ordinance, rule, regulation, judgment, order, injunction, decree, executive order or agency requirement of any Governmental Entity.

"**Nasdaq**" means the Nasdaq Global Select Market, or any successor stock market or exchange operated by Nasdaq, Inc., or any successor thereto.

"**Non Approval Termination**" means has the meaning ascribed to it in the Transaction Agreement.

"**Order**" means any order, writ, decree, judgment, award, injunction, ruling, settlement or stipulation issued, promulgated, made, rendered or entered into by or with any Governmental Entity or arbitrator (in each case, whether temporary, preliminary or permanent).

"**Parties**" means the Company and the Amgen Parties and "***Party***" means either the Company, on the one hand, or Amgen or the Amgen Parties (whether individually or collectively), on the other hand (as the context requires).

"**Person**" means any individual, corporation, partnership, limited liability company, association, trust or other entity or organization, including a government or political subdivision or an agency or instrumentality of such government or political subdivision.

"**PJT Partners**" means PJT Partners LP.

"**Proxy Statement**" means the proxy statement to be sent to the Company Shareholders in connection with the matters to be submitted at the Scheme Meeting and the EGM (such proxy statement, as amended or supplemented).

"**Required Non-U.S. Jurisdiction**" means (a) with respect to filings and notices under applicable Antitrust Laws, Germany and Austria and (b) with respect to filings and notices under applicable Foreign Investment Laws, France, Germany, Denmark and Italy.

"**Restricted Jurisdiction**" means any jurisdiction where it would be unlawful to send or make available information concerning the Acquisition to Company Shareholders.

"**Sanction Date**" means the date on which the Condition in paragraph 2.3 of Appendix 3 (*Conditions of the Acquisition and the Scheme*) of this Announcement is satisfied.

"**Scheme**" means the proposed scheme of arrangement under Chapter 1 of Part 9 of the Irish Companies Act to effect the Acquisition pursuant to the Transaction Agreement, on such terms and in such form as is consistent with the terms agreed to by the Parties as set out in this Announcement and to be set out in the Scheme Document, including any revision thereof as may be agreed between the Parties in writing, and, if required, by the Irish High Court.

"**Scheme Document**" means a document (or relevant sections of the Proxy Statement) (including any amendments or supplements thereto) to be distributed to Company Shareholders and, for information only, to the Company Equity Award Holders containing (i) the Scheme, (ii) the notice or notices of the Scheme Meeting and EGM, (iii) an explanatory statement as required by Section 452 of the Irish Companies Act with respect to the Scheme, (iv) such other information as may be required or necessary pursuant to the Irish Companies Act, the U.S. Exchange Act or the Irish Takeover Rules and (v) such other information as the Company and Amgen shall agree.

"**Scheme Meeting**" means the meeting or meetings of the Company Shareholders or, if applicable, the meeting or meetings of any class or classes of Company Shareholders (and, in each case, any adjournment or postponement thereof) convened by order of the Irish High Court pursuant to Section 450 of the Irish Companies Act to consider and, if thought fit, approve the Scheme (with or without amendment).

"**Scheme Meeting Resolution**" means the resolution to be proposed at the Scheme Meeting for the purposes of approving and implementing the Scheme.

"**Scheme Record Time**" means time specified as the scheme record time in the Scheme Document.

"**SEC**" means the United States Securities and Exchange Commission.

"**Subsidiary**" means, with respect to any Person, any entity of which securities or other ownership interests having ordinary voting power to elect a majority of the board of directors or other persons performing similar functions are directly or indirectly owned by such Person. For purposes of the Transaction Agreement, a Subsidiary shall be considered a "wholly owned Subsidiary" of a Person if such Person directly or indirectly owns all of the securities or other ownership interests (excluding any securities or other ownership interests held by an individual director or officer required to hold such securities or other ownership interests pursuant to applicable Laws) of such Subsidiary.

"**Superior Proposal Termination**" has the meaning ascribed to it in the Transaction Agreement.

"**Takeover Offer**" means an offer in accordance with Section 3.6 of the Transaction Agreement for the entire issued share capital of the Company (other than any Company Shares beneficially owned by Amgen or Acquirer Sub and any Company Shares held by any member of the Company Group) including any amendment or revision thereto pursuant to the Transaction Agreement, the full terms of which would be set out in the Takeover Offer Document or (as the case may be) any revised offer documents.

"**Takeover Offer Document**" means, if, following the date of the Transaction Agreement, Amgen elects to implement the Acquisition by way of the Takeover Offer in accordance with Section 3.6 of the Transaction Agreement, the document to be sent to the Company Shareholders and others jointly by Amgen and Acquirer Sub containing, among other things, the Takeover Offer, the Conditions (except as Amgen determines pursuant to and in accordance with Section 3.6 of the Transaction Agreement not to be appropriate in the case of a Takeover Offer) and certain information about Amgen, Acquirer Sub and the Company and, where the context so requires, includes any form of acceptance, election, notice or other document reasonably required in connection with the Takeover Offer.

"**Transaction Agreement**" means the Transaction Agreement dated December 11, 2022 by and among Amgen, Acquirer Sub and the Company, as the same may be amended from time to time.

"**Transactions**" means the transactions contemplated by the Transaction Agreement, including the Acquisition.

"**U.S. Exchange Act**" means the United States Securities Exchange Act of 1934, and the rules and regulations promulgated thereunder.

"**U.S. Securities Act**" means the United States Securities Act of 1933.

"**Voting Record Time**" means the date and time specified in the Scheme Document by which entitlement to vote at the Scheme Meeting will be determined.

References to "dollars" and "$" means U.S. dollars.

References to any applicable Law shall be deemed to refer to such applicable Law as amended from time to time and to any rules or regulations promulgated thereunder.

Any singular term in this Announcement shall be deemed to include the plural, and any plural term the singular, and references to any gender shall include all genders.

## APPENDIX 3

## CONDITIONS OF THE ACQUISITION AND THE SCHEME

The Acquisition and the Scheme will comply with the Irish Takeover Rules and, where relevant, the rules and regulations of the U.S. Exchange Act, the Irish Companies Act and the Nasdaq, and are subject to the terms and conditions set out in this Announcement and to be set out in the Scheme Document.

The Acquisition and the Scheme are, to the extent required by the Laws of Ireland, governed by the Laws of Ireland.

The Acquisition and the Scheme will be subject to the conditions set out in this Appendix 3 (*Conditions of the Acquisition and the Scheme*).

1 The Acquisition will be conditional upon the Scheme becoming effective and unconditional by not later than the End Date (or such earlier date as may be specified by the Irish Takeover Panel, or such later date as the Amgen Parties and the Company may, subject to receiving the consent of the Irish Takeover Panel and the Irish High Court, in each case if required, agree).

2 The Scheme will be conditional upon:

2.1 the Scheme having been approved by a majority in number of the Company Shareholders (including as may be directed by the Irish High Court pursuant to Section 450(5) of the Irish Companies Act) present and voting either in person or by proxy at the Scheme Meeting (or at any adjournment or postponement of such meeting) representing, at the Voting Record Time, at least 75% in value of the Company Shares held by such Company Shareholders present and voting either in person or by proxy at the Scheme Meeting;

2.2 each of the Required EGM Resolutions having been duly passed by the requisite majority of Company Shareholders at the EGM (or at any adjournment or postponement of such meeting);

2.3 the Irish High Court having sanctioned (without material modification) the Scheme pursuant to Sections 449 to 455 of the Irish Companies Act (the date on which the condition in this paragraph 2.3 is satisfied, the "**Sanction Date**"); and

2.4 a copy of the Court Order having been delivered for registration to the Irish Registrar of Companies within 21 days of the Sanction Date.

3 The Amgen Parties and the Company have agreed that, subject to paragraph 6, the Scheme and the Acquisition will also be conditional upon the following matters having been satisfied or waived on or before the Sanction Date:

3.1 the waiting period (and any extension thereof) applicable to the Acquisition under the HSR Act shall have expired or been earlier terminated;

3.2 all applicable waiting periods having expired, lapsed or been terminated or Clearances obtained (as appropriate), in each case in connection with the Acquisition, under (a) the applicable Antitrust Laws of each of Germany and Austria and (b) the applicable Foreign Investment Laws of France, Germany, Denmark and Italy;

3.3 there shall not have been issued by any court of competent jurisdiction and remain in effect any temporary restraining order, preliminary or permanent injunction or other Order preventing the consummation of the Acquisition, nor shall any Law or Order (other than any Antitrust Laws or Foreign Investment Laws of any jurisdiction that is not (a) a Required Non-U.S. Jurisdiction or (b) under the HSR Act) promulgated, entered, enforced, enacted, issued or deemed applicable to the Acquisition by any Governmental Entity which (i) directly or indirectly prohibits the consummation of the Acquisition or (ii) imposes any Burdensome Condition; *provided however*, that Amgen and Acquirer Sub shall not be permitted to invoke this paragraph 3.3 unless they shall have otherwise taken all actions required under the Transaction Agreement to have any such Order lifted; and

3.4 the Transaction Agreement not having been terminated in accordance with its terms by the applicable Party or Parties.

4 The Amgen Parties and the Company have agreed that, subject to paragraph 6, the Amgen Parties' obligation to effect the Scheme and the Acquisition will also be conditional upon the following matters having been satisfied (or, to the extent permitted by applicable Laws, waived by the Amgen Parties) on or before the Sanction Date:

4.1 from the date of the Rule 2.7 Announcement to the Sanction Date, there having not been any event, change, effect, development or occurrence that has had, or would reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect and that is continuing;

4.2 (a) each of the representations and warranties of the Company set out in Sections 6.1(a) (*Qualification, Organization, Subsidiaries, etc.*), 6.1(b) (*Subsidiaries*), 6.1(u) (*Corporate Authority Relative to the Transaction Agreement*) and 6.1(y) (*Brokers and Other Advisors*) of the Transaction Agreement having been true and correct in all material respects at and as of the date of the Transaction Agreement and at and as of the Sanction Date as though made at and as of the Sanction Date (in each case except to extent that any such representation and warranty speaks as of a particular date, in which case such representation and warranty shall have been true and correct in all material respects as of such particular date), (b) the representations and warranties of the Company set out in Section 6.1(c) (*Capitalization*) of the Transaction Agreement having been true and correct in all respects at and as of the date of the Transaction Agreement and at and as of the Sanction Date as though made at and as of the Sanction Date except for de minimis inaccuracies, (c) the representations and warranties of the Company set out in Section 6.1(e)(i) (*Absence of Changes*) of the Transaction Agreement having been true and correct in all respects at and as of the date of the Transaction Agreement and at and as of the Sanction Date as though made at and as of the Sanction Date and (d) each of the other representations and warranties of the Company having been true and correct (without any qualification as to materiality or the Company Material Adverse Effect therein) in all respects at and as of the date of the Transaction Agreement and at and as of the Sanction Date as though made at and as of the Sanction Date (in each case except to the extent that any such representation and warranty speaks as of a particular date, in which case such representation and warranty shall have been true and correct as of such particular date), except for such failures to be true and correct as have not had and would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect;

4.3 the Company having performed and complied, in all material respects, with all of the covenants and agreements that the Transaction Agreement requires the Company to perform or comply with prior to the Sanction Date; and

4.4 Amgen having received a certificate from an executive officer of the Company confirming the satisfaction of the conditions set out in paragraphs 4.2 and 4.3.

5 The Amgen Parties and the Company have agreed that, subject to paragraph 6, the Company's obligation to effect the Scheme and the Acquisition will also be conditional upon the following matters having been satisfied (or, to the extent permitted by applicable Laws, waived by the Company) on or before the Sanction Date:

5.1 (a) each of the representations and warranties of the Amgen Parties set out in Sections 6.2(a) (*Qualification and Organization*) and 6.2(b) (*Corporate Authority Relative to the Transaction Agreement*) of the Transaction Agreement having been true and correct in all material respects at and as of the date of the Transaction Agreement and at and as of the Sanction Date as though made at and as of the Sanction Date (in each case except to the extent that any such representation and warranty speaks as of a particular date, in which case such representation and warranty shall have been true and correct in all material respects as of such particular date), and (b) each of the other representations and warranties of the Amgen Parties set out in Section 6.2 of the Transaction Agreement having been true and correct (read for purposes of this paragraph 5.1(b) without any qualification as to materiality or Amgen Material Adverse Effect therein) in all respects at and as of the date of the Transaction Agreement and at and as of the Sanction Date as though made at and as of the Sanction Date (in each case except to the extent that any such representation and warranty speaks as of a particular date, in which case such representation and warranty shall have been true and correct in all respects as of such particular date), except for such failures to be true and correct as have not had and would not reasonably be expected to have, individually or in the aggregate, an Amgen Material Adverse Effect;

5.2 the Amgen Parties having performed and complied, in all material respects, with all of the covenants and agreements that the Transaction Agreement requires either of the Amgen Parties to perform or comply with prior to the Sanction Date; and

5.3 the Company having received a certificate from an executive officer of Amgen confirming the satisfaction of the conditions set out in paragraphs 5.1 and 5.2.

6 Subject to the requirements of the Irish Takeover Panel:

6.1 the Amgen Parties, on one hand, and the Company, on the other hand, reserve the right (but in no event shall any Party be under any obligation) to waive (to the extent permitted by applicable Laws), in whole or in part, all or any of the conditions in paragraph 3 (provided that no such waiver shall be effective unless agreed to by both Parties);

6.2 Amgen reserves the right (but shall be under no obligation) to waive (to the extent permitted by applicable Laws), in whole or in part, all or any of the conditions in paragraph 4; and

6.3 the Company reserves the right (but shall be under no obligation) to waive (to the extent permitted by applicable Laws), in whole or in part, all or any of the conditions in paragraph 5.

7 The Scheme will lapse unless it is effective on or prior to the End Date (or such later date as the Amgen Parties and the Company may, subject to receiving the consent of the Irish Takeover Panel and the Irish High Court, in each case if required, agree).

8 If Amgen is required to make an offer for the Company Shares under the provisions of Rule 9 of the Irish Takeover Rules, Amgen may make such alterations to any of the Conditions set out in paragraphs 1, 2, 3, 4 and 5 above as are necessary to comply with the provisions of that rule.

9 Amgen reserves the right, subject to the prior written consent of the Irish Takeover Panel, to effect the Acquisition by way of a Takeover Offer in the circumstances described in and subject to the terms of Section 3.6 of the Transaction Agreement. Without limiting Section 3.6 of the Transaction Agreement, in the event the Acquisition is structured as a Takeover Offer, such Takeover Offer will be implemented on terms and conditions that are at least as favorable to the Company Shareholders and the Company Equity Award Holders as those which would apply in relation to the Scheme (except for an acceptance condition set at 80% of the nominal value of the Company Shares to which such an offer relates (and which are not already in the beneficial ownership of Amgen)).

## APPENDIX 4

## TRANSACTION AGREEMENT

See Exhibit 2.1 of the Company's Current Report on Form 8-K, as filed with the SEC on December 12, 2022