

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): **September 21, 2021**

**RBC BEARINGS INCORPORATED**

(Exact name of registrant as specified in its charter)

**Delaware**

(State or other jurisdiction  
of incorporation)

**000-51486**

(Commission File Number)

**95-4372080**

(IRS Employer  
Identification No.)

**One Tribology Center**

**Oxford, CT 06478**

(Address of principal executive offices, including zip code)

**(203) 267-7001**

(Registrant's telephone number, including area code)

**N/A**

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

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

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

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

Title of Each Class	Trading Symbol	Name of Each Exchange on Which Registered
Common Stock, par value \$0.01 per share	ROLL	Nasdaq Global Select Market

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

Emerging growth company

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

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

On September 21, 2021, RBC Bearings Incorporated (the “Company”) and Roller Bearing Company of America, Inc. (“RBCA”) entered into Amendment No. 2 (the “Amendment”) to the Credit Agreement, dated as of April 24, 2015 (as amended by that certain Amendment No. 1 dated as of January 31, 2019 and as otherwise amended, restated, amended and restated or otherwise modified from time to time, the “Credit Agreement”), among RBCA, the Company, the subsidiary guarantors party thereto, the lenders party thereto, and Wells Fargo Bank, National Association, as administrative agent for the lenders.

The Company entered into the Amendment in order to permit the Company’s and RBCA’s issuance of certain equity and debt securities in connection with the Company’s financing of its pending acquisition of the Dodge Mechanical Power Transmission Business of ABB Asea Brown Boveri Ltd (“Dodge”).

The Amendment is filed as Exhibit 10.1 to this Current Report on Form 8-K and is incorporated herein by reference. The brief summary of the material provisions of the Amendment set forth above is qualified in its entirety by reference to the Amendment filed as an exhibit hereto.

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

On September 24, 2021, the Company issued 4,600,000 shares of a new class of its capital stock titled the “5.00% Series A Mandatory Convertible Preferred Stock” (the “Mandatory Convertible Preferred Stock”) in a public offering (the “Mandatory Convertible Preferred Stock Offering”) registered under the Securities Act of 1933, as amended (the “Securities Act”), including 600,000 shares issued pursuant to the full exercise of the option granted to the underwriters of the Mandatory Convertible Preferred Stock Offering to purchase additional shares solely to cover over-allotments. In connection with the issuance of Mandatory Convertible Preferred Stock, the Company filed a Certificate of Designations (the “Certificate of Designations”) with the Secretary of State of the State of Delaware designating, establishing the terms of, and authorizing an aggregate of 4,600,000 shares of the Mandatory Convertible Preferred Stock.

The Mandatory Convertible Preferred Stock has a par value of \$0.01 per share and a liquidation preference of \$100 per share. The Mandatory Convertible Preferred Stock will rank senior to the Company’s common stock, \$0.01 par value per share (the “Common Stock”), with respect to the payment of dividends and the distribution of assets upon the Company’s liquidation, dissolution or winding up. If the Company liquidates, dissolves or winds up, whether voluntarily or involuntarily, then, subject to the rights of any of the Company’s creditors or holders of any outstanding liquidation senior stock, the holders of the Mandatory Convertible Preferred Stock will be entitled to receive payment for the liquidation preference of, and all accumulated and unpaid dividends on, their Mandatory Convertible Preferred Stock out of the Company’s assets or funds legally available for distribution to its stockholders, before any such assets or funds are distributed to, or set aside for the benefit of, holders of the Common Stock or other junior stock.

The Mandatory Convertible Preferred Stock will accumulate cumulative dividends at a rate per annum equal to 5.00% on the liquidation preference thereof, and will be payable when, as and if declared by the Company's board of directors, out of funds legally available for their payment to the extent paid in cash, quarterly in arrears on January 15, April 15, July 15 and October 15 of each year, beginning on January 15, 2022 and ending on, and including, October 15, 2024. Declared dividends on the Mandatory Convertible Preferred Stock will be payable, at the Company's election, in cash, shares of Common Stock or a combination of cash and shares of Common Stock. If the Company elect to pay any portion of a declared dividend in shares of Common Stock, then those shares will be valued at 97% of the average of the daily volume-weighted average price per share of Common Stock over the five consecutive trading days beginning on, and including, the sixth scheduled trading day immediately before the related dividend payment date. However, the number of shares of Common Stock that the Company will deliver as payment for any declared dividend will be limited to a maximum number equal to the total dollar amount of the declared dividend (including any portion thereof that the Company has not elected to pay in shares of Common Stock) *divided by* the "floor price," which initially is equal to \$64.75 per share and is subject to customary anti-dilution adjustments. If the number of shares that the Company delivers is limited as a result of this provision, then the Company will, to the extent it is legally able to do so, declare and pay the related deficiency in cash.

In certain cases where the Company has not declared and paid accumulated dividends in full on the Mandatory Convertible Preferred Stock, then, subject to limited exceptions, the Company will be prohibited from declaring or paying dividends on or repurchasing any shares of Common Stock or other junior securities.

Unless previously converted or redeemed, each outstanding share of Mandatory Convertible Preferred Stock will automatically convert, for settlement on or about October 15, 2024, into between 0.4413 and 0.5405 shares of Common Stock, subject to customary anti-dilution adjustments (such amounts, as so adjusted, the "Minimum Conversion Rate" and the "Maximum Conversion Rate," respectively). The conversion rate that will apply to mandatory conversions will be determined based on the average of the daily volume-weighted average prices over the 20 consecutive trading days beginning on, and including, the 21st scheduled trading day immediately before October 15, 2024. The conversion rate applicable to mandatory conversions may in certain circumstances be increased to compensate holders of the Mandatory Convertible Preferred Stock (the "Preferred Stockholders") for certain unpaid accumulated dividends.

The Preferred Stockholders will have the right to convert all or any portion of their shares of Mandatory Convertible Preferred Stock at any time before the close of business on the mandatory conversion date. Early conversions that are not in connection with certain corporate events that constitute a "make-whole fundamental change" (as defined in the Certificate of Designations) will be settled at the Minimum Conversion Rate. In addition, the conversion rate applicable to such an early conversion may in certain circumstances be increased to compensate Preferred Stockholders for certain unpaid accumulated dividends.

If a make-whole fundamental change occurs, then Preferred Stockholders will, in certain circumstances, be entitled to convert their Mandatory Convertible Preferred Stock at an increased conversion rate for a specified period of time and receive an amount to compensate them for certain unpaid accumulated dividends and any remaining future scheduled dividend payments.

The Company expects to use the net proceeds from the Mandatory Convertible Preferred Stock Offering and the Common Stock Offering (as defined below) to fund a portion of the cash purchase price for the pending acquisition of Dodge, to pay acquisition-related fees and expenses, and for other general corporate purposes. If the pending acquisition of Dodge has not closed as of the close of business on January 26, 2022, or if, before such time, the purchase agreement for such pending acquisition is terminated in accordance with its terms or the Company's board of directors determines, in its reasonable judgment, that the closing of the pending acquisition of Dodge will not occur, then the Company will have the right to redeem all, but not less than all, of the Mandatory Convertible Preferred Stock. If the average of the last reported sale prices per share of Common Stock for the five consecutive trading days ending on, and including, the trading day immediately before the date the Company sends the related redemption notice does not exceed the Minimum Conversion Price, then the redemption price per share of Mandatory Convertible Preferred Stock will consist of cash in an amount equal to the liquidation preference per share plus accumulated and unpaid dividends to, but excluding, the redemption date. If such average of the last reported sale prices per share of Common Stock exceeds the Minimum Conversion Price, then the redemption price will consist of an amount (which is payable, at the Company's election, in cash or shares of Common Stock) that is designed to compensate Preferred Stockholders for the remaining option value of, and certain unpaid accumulated dividends and any remaining future scheduled dividend payments on, the Mandatory Convertible Preferred Stock.

The Mandatory Convertible Preferred Stock will have voting rights with respect to certain amendments to the Company's Amended and Restated Certificate of Incorporation or the Certificate of Designations, certain business combination transactions and certain other matters. However, Preferred Stockholders, as such, will not be entitled to vote on an as-converted basis with holders of Common Stock on matters on which holders of Common Stock are entitled to vote.

If accumulated dividends on the outstanding Mandatory Convertible Preferred Stock have not been declared and paid in an aggregate amount corresponding to six or more dividend periods, whether or not consecutive (a "Dividend Non-Payment Event"), then, subject to certain restrictions, the Company will cause the authorized number of its directors to be increased by two and the holders of the Mandatory Convertible Preferred Stock, voting together as a single class with the holders of each class or series of Voting Parity Stock (as defined in the Certificate of Designations), if any, will have the right to elect two directors (the "Preferred Stock Directors") to fill such two new directorships at the Company's next annual meeting of stockholders (or, if earlier, at a special meeting of the Company's stockholders called for such purpose). However, as a condition to the election of any such Preferred Stock Director, such election must not cause us to violate any rule of the Nasdaq Global Select Market or any other securities exchange or other trading facility on which any of the Company's securities are then listed or qualified for trading requiring that a majority of the Company's directors be independent (such condition, the "Director Qualification Requirement").

At any time, each Preferred Stock Director may be removed either (i) with cause in accordance with applicable law; or (ii) with or without cause by the affirmative vote of the Preferred Stockholders, voting together as a single class with the holders of each class or series of Voting Parity Stock, if any, with similar voting rights that are then exercisable, representing a majority of the combined voting power of the Mandatory Convertible Preferred Stock and such Voting Parity Stock. During the continuance of a Dividend Non-Payment Event, a vacancy in the office of any Preferred Stock Director (other than vacancies before the initial election of the Preferred Stock Directors in connection with such Dividend Non-Payment Event) may be filled, subject to the Director Qualification Requirement, by the remaining Preferred Stock Director or, if there is no remaining Preferred Stock Director or such vacancy resulted from the removal of a Preferred Stock Director, by the affirmative vote of the Preferred Stockholders, voting together as a single class with the holders of any Voting Parity Stock with similar voting rights that are then exercisable, representing a majority of the combined voting power of the Mandatory Convertible Preferred Stock and such Voting Parity Stock.

If, following a Dividend Non-Payment Event, all accumulated and unpaid dividends on the outstanding Mandatory Convertible Preferred Stock have been paid in full, then the right of the holders of the Mandatory Convertible Preferred Stock to elect two Preferred Stockholders will terminate. Upon the termination of such right with respect to the Mandatory Convertible Preferred Stock and all other outstanding Voting Parity Stock, if any, the term of office of each person then serving as a Preferred Stock Director will immediately and automatically terminate and the authorized number of the Company's directors will automatically decrease by two.

The description of the Certificate of Designations and the terms of the Mandatory Convertible Preferred Stock set forth above is a summary and is not complete. A copy of the Certificate of Designations and the form of the certificate representing the Mandatory Convertible Preferred Stock are filed as Exhibits 3.1 and 4.1, respectively, to this Current Report on Form 8-K. The summary set forth above is qualified in its entirety by reference to the terms of the Certificate of Designations and the form of the certificate representing the Mandatory Convertible Preferred Stock filed as exhibits hereto.

**Item 5.03. Amendments to Articles of Incorporation or Bylaws.**

The information set forth above in this Current Report under Item 3.03 is incorporated by reference into this Item 5.03.

**Item 8.01. Other Events.**

On September 24, 2021, the Company issued 3,450,000 shares of Common Stock in a public offering (the "Common Stock Offering") registered under the Securities Act, including 450,000 shares issued pursuant to the full exercise of the option granted to the underwriters of the Common Stock Offering to purchase additional shares.

**Item 9.01. Financial Statements and Exhibits.**

Exhibits

<u>Exhibit Number</u>	<u>Description</u>
<a href="#"><u>1.1</u></a>	<a href="#"><u>Underwriting Agreement, dated as of September 21, 2021, between RBC Bearings Incorporated and Goldman Sachs &amp; Co. LLC, as representative of the underwriters named therein, relating to the issuance and sale of 5.00% Series A Mandatory Convertible Preferred Stock.</u></a>
<a href="#"><u>1.2</u></a>	<a href="#"><u>Underwriting Agreement, dated as of September 21, 2021, between RBC Bearings Incorporated and Goldman Sachs &amp; Co. LLC, as representative of the underwriters named therein, relating to the issuance and sale of common stock.</u></a>
<a href="#"><u>3.1</u></a>	<a href="#"><u>Certificate of Designations relating to the 5.00% Series A Mandatory Convertible Preferred Stock.</u></a>
<a href="#"><u>4.1</u></a>	<a href="#"><u>Form of certificate representing the 5.00% Series A Mandatory Convertible Preferred Stock (included as Exhibit A to Exhibit 3.1).</u></a>
<a href="#"><u>5.1</u></a>	<a href="#"><u>Opinion of Kirkland &amp; Ellis LLP.</u></a>
<a href="#"><u>10.1</u></a>	<a href="#"><u>Amendment No. 2 to Credit Agreement, dated as of September 21, 2021, among Roller Bearing Company of America, Inc., RBC Bearings Incorporated, the lenders party thereto, and Wells Fargo Bank, National Association, as administrative agent for the lenders.</u></a>
<a href="#"><u>23.1</u></a>	<a href="#"><u>Consent of Kirkland &amp; Ellis LLP (included in Exhibit 5.1).</u></a>
104	Cover page interactive data file (embedded within the inline XBRL document).

**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.

Date: September 24, 2021

**RBC BEARINGS INCORPORATED**

By: /s/ John J. Feeney

Name: John J. Feeney

Title: Vice President, General Counsel & Secretary

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**RBC Bearings Incorporated**  
**4,000,000 Shares of 5.00%**  
**Series A Mandatory Convertible**  
**Preferred Stock, par value \$0.01**  
**per share**

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**Underwriting Agreement**

**September 21, 2021**

Goldman Sachs & Co. LLC  
200 West Street  
New York, New York 10282

As the representative (the "Representative") of the several Underwriters named in Schedule I hereto

Ladies and Gentlemen:

RBC Bearings Incorporated, a Delaware corporation (the "Company"), proposes, subject to the terms and conditions stated in this agreement (this "Agreement"), to issue and sell to the several Underwriters named in Schedule I hereto (the "Underwriters") an aggregate of 4,000,000 shares (the "Firm Securities") and, at the election of the Underwriters, up to 600,000 additional shares (the "Optional Securities") of 5.00% Series A Mandatory Convertible Preferred Stock, par value \$0.01 per share and with a liquidation preference of \$100 per share, of the Company (the Firm Securities and the Optional Securities that the Underwriters elect to purchase pursuant to Section 2 hereof being collectively called the "Securities"). The Securities will be convertible into a variable number of shares of the Company's common stock, par value \$0.01 per share (the "Common Stock"). Such Common Stock of the Company into which the Securities are convertible is hereinafter referred to as the "Conversion Securities."

The terms of the Securities will be set forth in the Certificate of Designations (the "Certificate of Designations") to be filed by the Company with the Secretary of State of the State of Delaware as an amendment to the Company's amended and restated certificate of incorporation.

Substantially concurrently with the offering of the Securities contemplated hereby, the Company is publicly offering shares of its Common Stock (the "Common Stock Offering") pursuant to a separate underwriting agreement (the "Common Stock Underwriting Agreement"). In addition, the Company's wholly owned subsidiary, Roller Bearing Company of America, Inc. ("RBCA"), intends to offer \$500 million aggregate principal amount of its Senior Notes (the "Senior Notes" and the offering thereof, the "Senior Notes Offering" and, together with the Common Stock Offering, the "Other Offerings") pursuant to a purchase agreement (the "Purchase Agreement"). The offering of the Securities is not contingent upon the completion of either of the Other Offerings, and neither of the Other Offerings is contingent on the completion of the offering of the Securities.

The Company has also entered into Amendment No. 2 (the "Amendment"), dated as of September 21, 2021, to the Credit Agreement, dated as of April 24, 2015, by and among, *inter alios*, RBCA, the Company, Wells Fargo Bank, National Association (the "Administrative Agent"), as administrative agent and the lenders party thereto, as amended by Amendment No. 1 thereto, dated as of January 31, 2019, by and among RBCA, the Company, the Administrative Agent and the other credit parties and lenders party thereto (the "Existing Credit Agreement"). The Company also intends to enter into (i) a 5-year \$500 million revolving credit facility and (ii) a 5-year \$1,300 million senior secured term loan facility (collectively, the "Senior Secured Credit Facilities," and together with the offering and sale of the Securities hereunder, the Other Offerings and the Amendment, the "Financing Transactions") pursuant to a Credit Agreement, by and among, among other parties, the Company, as holdings, RBCA, as the borrower, Wells Fargo Bank, National Association, as the administrative agent, and the lenders party thereto from time to time.



The Company is entering into the Financing Transactions in connection with the pending acquisition (the “Acquisition”) by the Company of the mechanical power transmission division of ABB Asea Brown Boveri Ltd (“ABB Asea”) operated under the Dodge brand (“Dodge”), pursuant to that certain Stock and Asset Purchase Agreement, dated as of July 24, 2021 (the “Asset Purchase Agreement”). A portion of the net proceeds from the Financing Transactions will be used to finance the Acquisition, to pay acquisition-related fees and expenses, and for general corporate purposes.

1. The Company represents and warrants to, and agrees with, each of the Underwriters that:

(a) An “automatic shelf registration statement” as defined under Rule 405 under the Securities Act of 1933, as amended (the “Act”), on Form S-3 (File No. 333-259669) in respect of the Securities has been filed with the Securities and Exchange Commission (the “Commission”) not earlier than three years prior to the date hereof; such registration statement, and any post-effective amendment thereto, became effective upon filing; and no stop order suspending the effectiveness of such registration statement or any part thereof has been issued and no proceeding for that purpose has been initiated or, to the Company’s knowledge, threatened by the Commission, and no notice of objection of the Commission to the use of such registration statement or any post-effective amendment thereto pursuant to Rule 401(g)(2) under the Act has been received by the Company ((i) the base prospectus filed as part of such registration statement, in the form in which it has most recently been filed with the Commission on or prior to the date of this Agreement, is hereinafter called the “Basic Prospectus”; (ii) any preliminary prospectus (including any preliminary prospectus supplement) relating to the Securities filed with the Commission pursuant to Rule 424(b) under the Act is hereinafter called a “Preliminary Prospectus”; (iii) the various parts of such registration statement, including all exhibits thereto and including any prospectus supplement relating to the Securities that is filed with the Commission and deemed by virtue of Rule 430B to be part of such registration statement, each as amended at the time such part of the registration statement became effective, are hereinafter collectively called the “Registration Statement”; (iv) the Basic Prospectus, as amended and supplemented immediately prior to the Applicable Time (as defined in Section 1(c) hereof), is hereinafter called the “Pricing Prospectus”; (v) the form of the final prospectus relating to the Securities filed with the Commission pursuant to Rule 424(b) under the Act in accordance with Section 5(a) hereof is hereinafter called the “Prospectus”; (vi) any reference herein to the Basic Prospectus, the Pricing Prospectus, any Preliminary Prospectus or the Prospectus shall be deemed to refer to and include the documents incorporated by reference therein pursuant to Item 12 of Form S-3 under the Act, as of the date of such prospectus; (vii) any reference to any amendment or supplement to the Basic Prospectus, any Preliminary Prospectus or the Prospectus shall be deemed to refer to and include any post-effective amendment to the Registration Statement, any prospectus supplement relating to the Securities filed with the Commission pursuant to Rule 424(b) under the Act and any documents filed under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), and incorporated therein, in each case after the date of the Basic Prospectus, such Preliminary Prospectus, or the Prospectus, as the case may be; (viii) any reference to any amendment to the Registration Statement shall be deemed to refer to and include any annual report of the Company filed pursuant to Section 13(a) or 15(d) of the Exchange Act after the effective date of the Registration Statement that is incorporated by reference in the Registration Statement; and (ix) any “issuer free writing prospectus” as defined in Rule 433 under the Act relating to the Securities is hereinafter called an “Issuer Free Writing Prospectus”);

(b) (i) No order preventing or suspending the use of any Preliminary Prospectus or any Issuer Free Writing Prospectus has been issued by the Commission, and (ii) each Preliminary Prospectus, at the time of filing thereof, conformed in all material respects to the requirements of the Act and the rules and regulations of the Commission thereunder, and did not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided, however, that this representation and warranty shall not apply to any statements or omissions made in reliance upon and in conformity with the Underwriter Information (as defined in Section 9(b) of this Agreement);

(c) For the purposes of this Agreement, the “Applicable Time” is 6:00 p.m. (Eastern time) on the date of this Agreement. The Pricing Prospectus, as supplemented by the information listed on Schedule II(b) hereto, taken together (collectively, the “Pricing Disclosure Package”), as of the Applicable Time, did not, and as of each Time of Delivery (as defined in Section 4(a) of this Agreement) will not, include any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; and each Issuer Free Writing Prospectus does not conflict with the information contained in the Registration Statement, the Pricing Prospectus or the Prospectus, and each Issuer Free Writing Prospectus, as supplemented by and taken together with the Pricing Disclosure Package, as of the Applicable Time, did not, and as of each Time of Delivery will not, include any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided, however, that this representation and warranty shall not apply to statements or omissions made in reliance upon and in conformity with the Underwriter Information;

(d) The documents incorporated by reference in the Pricing Prospectus and the Prospectus, when they became effective or were filed with the Commission, as the case may be, conformed in all material respects to the requirements of the Act or the Exchange Act, as applicable, and the rules and regulations of the Commission thereunder, and none of such documents contained an untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; and any further documents so filed and incorporated by reference in the Pricing Prospectus and the Prospectus or any further amendment or supplement thereto, when such documents become effective or are filed with the Commission, as the case may be, will conform in all material respects to the applicable requirements of the Act or the Exchange Act, as applicable, and the rules and regulations of the Commission thereunder and will not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided, however, that this representation and warranty shall not apply to any statements or omissions made in reliance upon and in conformity with the Underwriter Information; and no such documents were filed with the Commission since the Commission’s close of business on the business day immediately prior to the date of this Agreement and prior to the execution of this Agreement, except as set forth on Schedule II(b) hereto;

(e) The Registration Statement conforms, and the Prospectus and any further amendments or supplements to the Registration Statement and the Prospectus will conform, in all material respects to the applicable requirements of the Act and the rules and regulations of the Commission thereunder and do not and will not, as of the applicable effective date as to each part of the Registration Statement, as of the applicable filing date as to the Prospectus and any amendment or supplement thereto, and as of each Time of Delivery will not, in each case as then amended or supplemented, contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided, however, that this representation and warranty shall not apply to any statements or omissions made in reliance upon and in conformity with the Underwriter Information;

(f) Neither the Company nor any of its Subsidiaries (as defined below) has, since the date of the latest audited financial statements included or incorporated by reference in the Pricing Prospectus, (i) sustained any material loss or interference with its business from fire, explosion, flood or other calamity, whether or not covered by insurance, or from any court or governmental action, order or decree, or (ii) entered into any transaction or agreement (whether or not in the ordinary course of business) that is material to the Company and its subsidiaries taken as a whole or incurred any liability or obligation, direct or contingent, that is material to the Company and its subsidiaries taken as a whole, in each case otherwise than the Financing Transactions or as set forth or contemplated in the Pricing Prospectus or any documents incorporated by reference therein; and, since the respective dates as of which information is given in the Registration Statement and the Pricing Prospectus, there has not been (x) any change in the capital stock (other than as a result of (i) the exercise, if any, of stock options or the award, vesting or forfeiture, if any, of stock options, restricted stock or other compensatory equity-based awards in the ordinary course of business pursuant to the Company's equity plans that are described in the Registration Statement, the Pricing Prospectus or the Prospectus or (ii) the issuance, if any, of stock upon conversion of Company securities as described in the Pricing Prospectus and the Prospectus) or long-term debt of the Company or any of its Subsidiaries, or (y) any Material Adverse Effect (as defined below), other than in connection with (x) any voluntary prepayments of long-term debt of the Company or any of its Subsidiaries, (y) the Financing Transactions, including the issuance of any Senior Notes, Mandatory Convertible Preferred Stock and Conversion Securities or (z), as described in the Registration Statement, the Pricing Prospectus or the Prospectus; as used in this Agreement, "Material Adverse Effect" shall mean any material adverse change or effect, or any development involving a prospective material adverse change or effect, in or affecting the business, properties, management, financial position, stockholders' equity or results of operations of the Company and its Subsidiaries, taken as a whole, except as set forth or contemplated in the Pricing Prospectus;

(g) Except as would not, singly or in the aggregate, reasonably be expected to result in a Material Adverse Effect, the Company and its Subsidiaries have good and marketable title in fee simple to all real property and good and marketable title to all material personal property (other than intellectual property, which is covered in Section 1(ee) below) owned by them, in each case free and clear of all liens, encumbrances and defects except (i) such as are described in the Pricing Prospectus, (ii) such that secure the Existing Credit Agreement, (iii) such that secure the credit facility agreements, each dated as of August 15, 2019, by and between Schaublin SA and Credit Suisse (Switzerland) Ltd. (the "Schaublin Credit Agreements"), (iv) such that will secure the Senior Secured Credit Facilities (together with the Existing Credit Agreement and the Schaublin Credit Agreements, the "Specified Credit Facilities"), or (v) such as do not materially affect the value of such property and do not materially interfere with the use made and proposed to be made of such property by the Company and its Subsidiaries; and any real property and buildings held under lease by the Company and its Subsidiaries are held by them under valid, subsisting and enforceable leases with such exceptions as are not material and do not materially interfere with the use made and proposed to be made of such property and buildings by the Company and its Subsidiaries;

(h) Each of the Company and each of the entities listed on Schedule III hereto (the “Subsidiaries” and each, a “Subsidiary”) has been (i) duly incorporated, formed or organized, as applicable, and is validly existing and in good standing under the laws of its jurisdiction of incorporation, formation or organization (to the extent the concept of good standing is applicable in such jurisdiction), with power and authority (corporate and other) to own its properties and conduct its business as described in the Pricing Prospectus, and (ii) duly qualified as a foreign corporation for the transaction of business and is in good standing under the laws of each other jurisdiction in which it owns or leases properties or conducts any business so as to require such qualification, except, in the case of this clause (ii), where the failure to be so qualified or in good standing would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect;

(i) (i)The Company has an authorized capitalization as set forth in the Pricing Prospectus and all of the issued shares of capital stock of the Company have been duly and validly authorized and issued and are fully paid and non-assessable and conform in all material respects to the description of the capital stock contained in the Pricing Disclosure Package and the Prospectus; (ii) all of the issued shares of capital stock of each Subsidiary of the Company that are owned directly or indirectly by the Company have been duly and validly authorized and issued, are fully paid and non-assessable and (except, in the case of any foreign Subsidiary, for directors’ qualifying shares) are owned directly or indirectly by the Company, free and clear of all liens, encumbrances, equities or claims, except for such liens or encumbrances relating to the Specified Credit Facilities or as described in the Pricing Prospectus and the Prospectus; (iii) the Securities to be issued and sold by the Company to the Underwriters hereunder have been duly and validly authorized and, when issued and delivered against payment therefor as provided herein, will be duly and validly issued and fully paid and non-assessable and will conform in all material respects to the description of the Securities contained in the Pricing Disclosure Package and the Prospectus; and (iv) the issuance of the Securities is not subject to any preemptive or similar rights;

(j) The issue and sale of the Securities and the compliance by the Company with this Agreement and the consummation of the transactions contemplated in this Agreement and the Pricing Prospectus will not conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default under, (i) any indenture, mortgage, deed of trust, loan agreement, lease or other agreement or instrument to which the Company or any of its Subsidiaries is a party or by which the Company or any of its Subsidiaries is bound or to which any of the property or assets of the Company or any of its Subsidiaries is subject, (ii) the certificate of incorporation or by-laws (or other applicable organizational document) of the Company or any of its Subsidiaries, or (iii) any statute or any judgment, order, rule or regulation of any court or governmental agency or body having jurisdiction over the Company or any of its Subsidiaries or any of their properties, except, in the case of clauses (i) and (iii) for such conflicts, defaults, breaches, or violations that would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect; and no consent, approval, authorization, order, registration or qualification of or with any such court or governmental agency or body is required for the issue and sale of the Securities and the issue of Conversion Securities equal to the Maximum Number of Conversion Securities (as defined below) issuable by the Company in accordance with the terms of the Securities set forth in the Certificate of Designations or the consummation by the Company of the transactions contemplated by this Agreement or the Certificate of Designations, except for (a) the filing of the Certificate of Designations with the Secretary of State of the State of Delaware, (b) the registration of the Securities under the Exchange Act and the approval for listing of the Securities on the Exchange (as defined below), (c) such as have been obtained under the Act, (d) the approval by the Financial Industry Regulatory Authority, Inc. (“FINRA”) of the underwriting terms and arrangements and (e) such consents, approvals, authorizations, orders, registrations or qualifications as may be required under state securities or Blue Sky laws in connection with the purchase and distribution of the Securities by the Underwriters, and except where the failure to obtain any such consent, approval, authorization, order, registration or qualification would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect. As used herein, “Maximum Number of Conversion Securities” means the sum of (A) the product of (x) the initial Maximum Conversion Rate (as defined in the Certificate of Designations) for the Securities set forth the Certificate of Designations and (y) the aggregate number of Securities sold by the Company to the Underwriters pursuant to this Agreement, including any Option Securities the Underwriters elect to purchase pursuant to Section 2 hereof and (B) the number of shares of Common Stock deliverable by the Company upon conversion in respect of dividends payable upon conversion of such Securities (whether or not declared) (assuming the Company elects to issue and deliver, in respect of accumulated and unpaid dividends (whether or not declared), the maximum number of shares of Common Stock in connection with any such conversion), in each case in accordance with the terms of the Certificate of Designations;

(k) Neither the Company nor any of its Subsidiaries is (i) in violation of its certificate of incorporation or by-laws (or other applicable organizational document), or (ii) in default in the performance or observance of any obligation, agreement, covenant or condition contained in any indenture, mortgage, deed of trust, loan agreement, lease or other agreement or instrument to which it is a party or by which it or any of its properties may be bound, except, in the case of the foregoing clause (ii), for such violations or defaults as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect;

(l) The statements set forth in the Pricing Prospectus and the Prospectus under the caption “Description of Mandatory Convertible Preferred Stock” and “Description of Capital Stock”, insofar as they purport to constitute a summary of the terms of the Securities and the Common Stock (including the Conversion Securities), under the caption “Material U.S. Federal Income Tax Considerations”, insofar as they purport to describe the provisions of the laws and documents referred to therein, are accurate and complete in all material respects;

(m) Other than as set forth in the Pricing Prospectus, there are no legal, governmental or regulatory proceedings (“Actions”) pending to which the Company or any of its Subsidiaries is a party or of which any property of the Company or any of its Subsidiaries is the subject which, if determined adversely to the Company or any of its Subsidiaries, would individually or in the aggregate have a Material Adverse Effect, and, to the Company’s knowledge, no such proceedings are threatened or contemplated by governmental authorities or others;

(n) The Company is not and, after giving effect to the sale of the Securities and the application of the proceeds thereof, will not be an “investment company”, as such term is defined in the Investment Company Act of 1940, as amended;

(o) Except as described in the Registration Statement or except as would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, (i) the Company and each of its Subsidiaries is currently in compliance with, and has not incurred liability under, any applicable federal, state, local or foreign laws, rules, regulations, permits, ordinances, orders, judgments, or decrees concerning pollution, protection or preservation of the environment (including, without limitation, ambient air, surface water, groundwater, land surface or subsurface strata), wildlife, or natural resources, including, without limitation, as relating to the release or threatened release of chemicals, pollutants, contaminants, wastes, toxic substances, hazardous substances, petroleum or petroleum products, asbestos-containing materials, polychlorinated biphenyl, per- and polyfluoroalkyl substances or mold (collectively, “Hazardous Materials”) or to the manufacture, processing, distribution, use, treatment, storage, disposal, release, presence, transport or handling of Hazardous Materials (collectively, “Environmental Laws”) and (ii) there are no pending or, to the Company’s knowledge, threatened administrative, regulatory or judicial actions, suits, demands, demand letters, claims, liens, notices of noncompliance or violation, or proceedings against the Company or any of its Subsidiaries under Environmental Laws or relating to Hazardous Materials;

(p) Each of the Company and its subsidiaries have complied with the minimum funding standards of Section 412 of the Internal Revenue Code of 1986, as amended (the “Code”) or Section 302 and Title IV of the United States Employee Retirement Income Security Act of 1974 (“ERISA”) and the regulations and published interpretations thereunder with respect to each “defined benefit plan” (as defined in Section 3(35) of ERISA) with respect to which the Company or any of its subsidiaries has any liability (a “Plan”). Except as would not reasonably be expected to have a Material Adverse Effect, (A) each Plan is in compliance with its terms and the requirements of applicable statutes, orders, rules and regulations, including, without limitation, ERISA, the Code and such regulations and published interpretations thereto; (B) no prohibited transaction within the meaning of Section 406 of ERISA or Section 4975 of the Code has occurred with respect to any Plan, excluding transactions effected pursuant to a statutory or administrative exemption; (C) none of the Company, any of its subsidiaries or any member of the “Controlled Group” (defined as any entity, whether or not incorporated, that is under common control with the Company within the meaning of Section 4001(a)(14) of ERISA or any entity that would be regarded as a single employer with the Company under Section 414(b), (c), (m) or (o) of the Code) has incurred, nor reasonably expects to incur, any material liability under Title IV of ERISA; (D) no “reportable event” (within the meaning of Section 4043(c) of ERISA, other than those events as to which notice is waived) has occurred or is reasonably expected to occur with respect to any Plan; (E) each Plan that is intended to be qualified under Section 401(a) of the Code is the subject of a favorable determination or opinion letter, and nothing has occurred, whether by action or by failure to act, which would adversely impact such qualification; (F) there is no pending audit or investigation by the U.S. Internal Revenue Service, the U.S. Department of Labor, the Pension Benefit Guaranty Corporation or any other governmental entity with respect to any Plan; and (G) there has not occurred nor is there reasonably likely to occur a material increase in the aggregate amount of contributions required to be made to all Plans by the Company or any of its subsidiaries in the current fiscal year of the Company and such subsidiaries compared to the amount of such contributions made in the Company’s and such subsidiaries’ most recently completed fiscal year;

(q) Except as would not reasonably be expected to have a Material Adverse Effect, no labor strike, lockout or similar labor dispute with employees or officers of the Company or any of its subsidiaries exists or, to the Company’s knowledge, is threatened. Except as set forth in the Company’s Annual Report on Form 10-K for the fiscal year ended April 3, 2021, neither the Company nor any of its subsidiaries is a party to any collective bargaining agreement with regards to its U.S. employees. Except as would not reasonably be expected to have a Material Adverse Effect, the Company and its subsidiaries are in material compliance with all applicable laws and regulations respecting labor and employment matters, including, without limitation, fair employment practices, harassment, discrimination, pay equity, the classification of independent contractors and employees, workplace safety and health, work authorization and immigration, unemployment compensation, workers’ compensation, affirmative action, terms and conditions of employment, employee leave and wages and hours, including payment of minimum wages and overtime;

(r) (i) (A) At the time of filing the Registration Statement, (B) at the time of the most recent amendment thereto for the purposes of complying with Section 10(a)(3) of the Act (whether such amendment was by post-effective amendment, incorporated report filed pursuant to Section 13 or 15(d) of the Exchange Act or form of prospectus), and (C) at the time the Company or any person acting on its behalf (within the meaning, for this clause only, of Rule 163(c) under the Act) made any offer relating to the Securities in reliance on the exemption of Rule 163 under the Act, the Company was a “well-known seasoned issuer” as defined in Rule 405 under the Act; and (ii) at the time of filing of the Registration Statement and any post-effective amendment thereto and at the earliest time thereafter that the Company or any offering participant made a bona fide offer (within the meaning of Rule 164(h)(2) under the Act) of the Securities, the Company was not and is not an “ineligible issuer,” as defined in Rule 405 under the Act;

(s) Ernst & Young LLP, who has certified certain financial statements of the Company and its subsidiaries in existence as of the dates thereof, and have audited the Company's internal control over financial reporting and management's assessment thereof, is an independent registered public accounting firm as required by the Securities Act and the rules and regulations of the Commission thereunder;

(t) KPMG AG, who has audited certain financial statements of Dodge, is an independent auditor with respect to Dodge in accordance with rule 101 of the American Institute of Certified Public Accountants Code of Professional Conduct;

(u) The Company maintains a system of internal control over financial reporting (as such term is defined in Rule 13a-15(f) under the Exchange Act) that (i) complies with the requirements of the Exchange Act, (ii) has been designed by the Company's principal executive officer and principal financial officer, or under their supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with U.S. generally accepted accounting principles ("GAAP"), and (iii) is sufficient to provide reasonable assurance that (A) transactions are executed in accordance with management's general or specific authorization, (B) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain accountability for assets, (C) access to assets is permitted only in accordance with management's general or specific authorization, and (D) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences; and the Company's internal control over financial reporting is effective and the Company is not aware of any material weaknesses in its internal control over financial reporting;

(v) Since the date of the latest audited financial statements included or incorporated by reference in the Pricing Prospectus, there has been no change in the Company's internal control over financial reporting that has materially adversely affected, or is reasonably likely to materially adversely affect, the Company's internal control over financial reporting;

(w) The Company maintains disclosure controls and procedures (as such term is defined in Rule 13a-15(e) under the Exchange Act) that comply with the requirements of the Exchange Act; such disclosure controls and procedures have been designed to ensure that material information relating to the Company and its Subsidiaries is made known to the Company's principal executive officer and principal financial officer by others within those entities; and such disclosure controls and procedures are effective;

(x) This Agreement has been duly authorized, executed and delivered by the Company;

(y) The Certificate of Designations will have been duly authorized, executed and delivered by the Company and filed with the Secretary of State of the State of Delaware at or before the First Time of Delivery. The holders of the Securities will have the rights set forth in the Certificate of Designations upon filing of the Certificate of Designation with the Secretary of State of the State of Delaware;

(z) Upon issuance of the Securities in accordance with this Agreement and the Certificate of Designations, the Securities will be convertible into the Conversion Securities in accordance with the terms of the Securities set forth in the Certificate of Designation; at or before the First Time of Delivery, the Maximum Number of Conversion Securities will be duly authorized and reserved (for the period beginning at the First Time of Delivery and continuing through October 15, 2024) for issuance; all Conversion Securities, when issued upon such conversion or delivery (as the case may be) in accordance with the terms of the Securities set forth in the Certificate of Designation, will be duly authorized, validly issued, fully paid and nonassessable, will conform in all material respects to the descriptions thereof in the Registration Statement, the Pricing Disclosure Package and the Prospectus and will not be subject to any preemptive or similar rights;

(aa) (i) Neither the Company nor any of its Subsidiaries, nor any director or officer of the Company or any of its subsidiaries, nor, to the knowledge of the Company, any employee, agent, affiliate or other person associated with or acting on behalf of the Company or any of its Subsidiaries has (A) made, offered, promised or authorized any corporate funds for any unlawful contribution, gift, entertainment or other unlawful expense (or taken any act in furtherance thereof), (B) made, offered, promised or authorized any direct or indirect unlawful payment or other thing of value to any foreign or domestic government official or employee, or (C) violated or is in violation of any provision of the Foreign Corrupt Practices Act of 1977, as amended, or the rules and regulations thereunder, the Bribery Act 2010 of the United Kingdom or any other applicable anti-corruption, anti-bribery or related law, statute or regulation (collectively, "Anti-Corruption Laws"); (ii) the Company and its Subsidiaries have conducted their businesses in compliance with Anti-Corruption Laws and have instituted and maintained and will continue to maintain policies and procedures reasonably designed to promote and achieve compliance with such laws and with the representations and warranties contained herein; and (iii) neither the Company nor any of its Subsidiaries will use, directly or indirectly, the proceeds of the offering in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any person in violation of Anti-Corruption Laws;

(bb) The operations of the Company and its Subsidiaries are and have been conducted at all times in compliance with the requirements of applicable anti-money laundering laws, including, but not limited to, the Bank Secrecy Act of 1970, as amended by the USA PATRIOT ACT of 2001, and the applicable rules and regulations promulgated thereunder, and the anti-money laundering laws of the various jurisdictions in which the Company and its Subsidiaries conduct business, the rules and regulations thereunder and any related or similar rules, regulation or guidelines issued, administered or enforced by any governmental agency having jurisdiction over the Company or any of its Subsidiaries (collectively, the "Money Laundering Laws"), and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any of its Subsidiaries with respect to the Money Laundering Laws is pending or, to the knowledge of the Company, threatened;

(cc) (i) Neither the Company nor any of its Subsidiaries, nor any of their respective directors or officers, nor, to the knowledge of the Company, any employee, agent, affiliate or other person associated with or acting on behalf of the Company or any of its Subsidiaries is (A) currently the subject or the target of any sanctions administered or enforced by the U.S. Government, including, without limitation, the Office of Foreign Assets Control of the U.S. Department of the Treasury, or the U.S. Department of State and including, without limitation, the designation as a "specially designated national" or "blocked person," the European Union, Her Majesty's Treasury or the United Nations Security Council (collectively, "Sanctions"), or (B) located, organized, or resident in a country or territory that is the subject of Sanctions (currently, Cuba, Iran, North Korea, Syria, and the Crimea region of Ukraine) (a "Sanctioned Jurisdiction"); (ii) the Company will not directly or indirectly use the proceeds of the offering of the Securities hereunder, or lend, contribute or otherwise make available such proceeds to any Subsidiary, joint venture partner or other person or entity, (A) to fund or facilitate any activities of or business with any person, or in any country or territory, that, at the time of such funding, is the subject or the target of Sanctions, or (B) in any other manner that will result in any person (including any person participating in the offering of the Securities, whether as underwriter, advisor, investor or otherwise) violating or becoming the subject or the target of Sanctions; (iii) neither the Company nor any of its Subsidiaries is engaged in, or has, at any time in the past five years, knowingly engaged in, any dealings or transactions with any person that was or is, as applicable, at the time of such dealing or transaction, the subject of Sanctions or with any Sanctioned Jurisdiction; and (iv) the Company and its Subsidiaries have instituted, and maintain, policies and procedures reasonably designed to promote and achieve continued compliance with Sanctions;



(dd) The historical financial statements included or incorporated by reference in the Registration Statement, the Pricing Prospectus and the Prospectus, together with the related schedules and notes, present fairly in all material respects the consolidated financial position of the Company and its consolidated subsidiaries (in existence as of the dates thereof) at the dates indicated and the statement of operations, stockholders' equity and cash flows of the Company and its consolidated subsidiaries (in existence as of the dates thereof) for the periods specified; and said financial statements have been prepared in conformity with GAAP applied on a consistent basis throughout the periods involved. The summary financial information included or incorporated by reference in the Registration Statement, the Pricing Prospectus and the Prospectus present fairly in all material respects the information shown therein and have been compiled on a basis consistent with that of the audited financial statements included therein. The pro forma financial information included or incorporated by reference in the Registration Statement, the Pricing Prospectus and the Prospectus, together with the related notes, has been prepared in accordance with the Commission's rules and guidelines with respect to pro forma financial statements and the assumptions used in preparation thereof are reasonable. All disclosures contained in the Registration Statement, the Pricing Prospectus and the Prospectus regarding "non-GAAP financial measures" (as such term is defined by the rules and regulations of the Commission) comply in all material respects with Regulation G of the Exchange Act and Item 10 of Regulation S-K of the Act, to the extent applicable;

(ee) Except as would not, individually or in the aggregate, have a Material Adverse Effect, the Company and each of its Subsidiaries (i) own, or otherwise have the right to use all patents, trademarks, service marks, trade names, domain names, copyrights, trade secrets, and other intellectual property (collectively, "Intellectual Property") necessary for the conduct of their respective businesses as currently conducted by them in the manner described in the Registration Statement, the Pricing Prospectus and the Prospectus, (ii) do not, through the conduct of their respective businesses as currently conducted, infringe, misappropriate, dilute or otherwise violate any Intellectual Property rights of others, and (iii) in the past three (3) years, have not received any written notice of any claim of infringement, misappropriation, dilution or other violation of any Intellectual Property rights of any third party. There are no pending or threatened in writing actions, suits, proceedings or claims by any third party challenging the validity, enforceability, registration, ownership, scope or use of any material Intellectual Property owned by the Company or any of its Subsidiaries;

(ff) The Company and its Subsidiaries own or have a valid right to access and use all of their information technology assets and equipment, computers, systems, networks, hardware, software, websites, applications, and databases (collectively, “IT Systems”), except as would not, individually or in the aggregate, have a Material Adverse Effect. The IT Systems (i) are adequate for, and operate and perform in all material respects as required in connection with the operation of the business of the Company and its Subsidiaries as currently conducted, (ii) except as set forth in the Company’s Annual Report on Form 10-K for the fiscal year ended April 3, 2021 or the Company’s other filings with the SEC, have not materially malfunctioned or failed in the past three (3) years, and (iii) to the Company’s knowledge, are free and clear of all material bugs, errors, defects, Trojan horses, time bombs, back doors, drop dead devices, malware and other corruptants, including software or hardware components that are designed to interrupt use of, permit unauthorized access to or disable, damage or erase, the IT Systems and data, except for any of the foregoing that would not, individually or in the aggregate, have a Material Adverse Effect. The Company and its Subsidiaries have implemented, and maintain commercially reasonable controls, policies, procedures, and safeguards consistent with applicable regulatory standards and customary industry practices (including in relation to any third parties with which the Company and its Subsidiaries share data) to maintain and protect the confidentiality of their material confidential information and the operation, integrity, and security of all IT Systems and data (including all “personal information” or “personally identifiable information” or similar terms under one or more applicable laws (“Personal Data”)) used or gathered in connection with their businesses. In the past three (3) years, there have been no breaches, violations, outages or unauthorized uses of or accesses to the IT Systems or loss, theft, or accidental, unlawful or unauthorized access, use, loss, or disclosure of Personal Data, except for those that have been remedied (“Security Incidents”). During the past three (3) years the Company and its Subsidiaries, (x) have complied, and have required third parties with which the Company and its Subsidiaries share data to comply, in all material respects and are presently in compliance in all material respects with, to the extent relating to the privacy and security of IT Systems and Personal Data (A) all applicable laws or statutes and all judgments, orders, rules and regulations of any court or arbitrator or governmental or regulatory authority, and (B) external policies, contractual obligations, and industry standards applicable to the Company and its Subsidiaries (collectively, the “Data Security Obligations”), and (y) have not in relation to any Security Incidents and/or Data Security Obligations: (i) been required to notify customers, consumers, employees, governmental authority, or any other Person (other than notifications to governmental authorities that were made in relation to the incident described in Part I, Item 1A, “Risk Factors - Risks associated with utilizing information technology systems could adversely affect our operations” of the Company’s Annual Report on Form 10-K for the fiscal year ended April 3, 2021) of any Security Incidents; (ii) received any notice, request, claim, complaint, correspondence or other communication regarding non-compliance; or (iii) been made aware of any pending or threatened inquiry, investigation, action, suit, investigation or proceeding by or before any court or governmental agency, authority or body against the Company or any of its Subsidiaries. The Company and its Subsidiaries have implemented and maintained commercially reasonable backup and disaster recovery technology consistent in all material respects with applicable regulatory standards and customary industry practices;

(gg) No forward-looking statement (within the meaning of Section 27A of the Act and Section 21E of the Exchange Act) included or incorporated by reference in any of the Registration Statement, the Pricing Prospectus or the Prospectus has been disclosed other than in good faith;

(hh) Neither the Company nor any of its affiliates has taken or will take, directly or indirectly, any action designed to or that would reasonably be expected to cause or result in the stabilization or manipulation of the price of any security of the Company or any of its Subsidiaries in connection with the offering of the Securities;

(ii) The Company and each of its Subsidiaries have such permits, licenses, approvals, consents, franchises, certificates of need and other approvals or authorizations of governmental or regulatory authorities (“Permits”) as are necessary under applicable law to own their respective properties and conduct their respective businesses in the manner described in the Registration Statement, the Pricing Prospectus and the Prospectus, except for any of the foregoing that would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Neither the Company nor any of its Subsidiaries has received notice of any proceedings related to the revocation or modification of any such Permits that, if the subject of an unfavorable decision, ruling or finding, would, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect; and

(jj) The Company and its subsidiaries, taken as a whole, are insured against such losses and risks and in such amounts as are prudent and customary in the businesses in which they are engaged and as required by law.

For the avoidance of doubt, the representations and warranties herein with respect to the Company's subsidiaries shall be in respect of the Company's subsidiaries as in existence as of the date hereof, unless otherwise specified.

2. Subject to the terms and conditions herein set forth, (a) the Company agrees to issue and sell to each of the Underwriters, and each of the Underwriters agrees, severally and not jointly, to purchase from the Company, at a purchase price per share of \$97.00, the number of Firm Securities set forth opposite the name of such Underwriter in Schedule I hereto and (b) in the event and to the extent that the Underwriters shall exercise the election to purchase Optional Securities as provided below, the Company agrees to issue and sell to each of the Underwriters, and each of the Underwriters agrees, severally and not jointly, to purchase from the Company, at the purchase price per share set forth in clause (a) of this Section 2 (provided that the purchase price per Optional Security shall be reduced by an amount per share equal to any dividends or distributions declared by the Company and payable on the Firm Shares but not payable on the Optional Securities), that portion of the number of Optional Securities as to which such election shall have been exercised (to be adjusted by you so as to eliminate fractional shares) determined by multiplying such number of Optional Securities by a fraction, the numerator of which is the maximum number of Optional Securities which such Underwriter is entitled to purchase as set forth opposite the name of such Underwriter in Schedule I hereto and the denominator of which is the maximum number of Optional Securities that all of the Underwriters are entitled to purchase hereunder.

The Company hereby grants to the Underwriters the right to purchase at their election up to 600,000 Optional Securities solely to cover over-allotments, at the purchase price per share set forth in the paragraph above, for the sole purpose of covering sales of shares in excess of the number of Firm Securities, provided that the purchase price per Optional Security shall be reduced by an amount per share equal to any dividends or distributions declared by the Company and payable on the Firm Shares but not payable on the Optional Securities. Any such election to purchase Optional Securities may be exercised only by written notice from you to the Company, given within a period of 30 calendar days after the date of this Agreement, setting forth the aggregate number of Optional Securities to be purchased and the date on which such Optional Securities are to be delivered, as determined by you but in no event earlier than the First Time of Delivery (as defined in Section 4 hereof) or, unless you and the Company otherwise agree in writing, earlier than two or later than ten business days after the date of such notice.

3. Upon the authorization by you of the release of the Firm Securities, the several Underwriters propose to offer the Firm Securities for sale upon the terms and conditions set forth in the Pricing Disclosure Package and the Prospectus.

4. (a) The Securities to be purchased by each Underwriter hereunder, in definitive or book-entry form, and in such authorized denominations and registered in such names as the Representative may request upon at least forty-eight hours' prior written notice to the Company shall be delivered by or on behalf of the Company to the Representative, through the facilities of the Depository Trust Company ("DTC"), for the account of such Underwriter, against payment by or on behalf of such Underwriter of the purchase price therefor by wire transfer of Federal (same-day) funds to the account specified by the Company to the Representative at least forty-eight hours in advance. The Company will cause the certificates, if any, representing the Securities to be made available for checking and packaging at least twenty-four hours prior to the Time of Delivery (as defined below) with respect thereto at the office of DTC or its designated custodian. The time and date of such delivery and payment shall be, with respect to the Firm Securities, 9:30 a.m., New York City time, on September 24, 2021, or such other time and date as the Representative and the Company may agree upon in writing, and, with respect to the Optional Securities, 9:30 a.m., New York time, on the date specified by the Representative in the written notice given by the Representative of the Underwriters' election to purchase such Optional Securities, or such other time and date as the Representative and the Company may agree upon in writing. Such time and date for delivery of the Firm Securities is herein called the "First Time of Delivery", such time and date for delivery of the Optional Securities, if not the First Time of Delivery, is herein called the "Second Time of Delivery", and each such time and date for delivery is herein called a "Time of Delivery".

(b) The documents to be delivered at each Time of Delivery by or on behalf of the parties hereto pursuant to Section 8 hereof, including the cross-receipt for the Securities and any additional documents requested by the Underwriters pursuant to Section 8(k) hereof, will be delivered via electronic mail at such Time of Delivery. Prior to 9:00 a.m., New York City time, on the New York Business Day next preceding such Time of Delivery, the final drafts of the documents to be delivered pursuant to the preceding sentence will be available via electronic mail for review by the parties hereto. For the purposes of this Section 4, "New York Business Day" shall mean each Monday, Tuesday, Wednesday, Thursday and Friday which is not a day on which banking institutions in New York City are generally authorized or obligated by law or executive order to close.

5. The Company agrees with each of the Underwriters:

(a) (i) To prepare the Prospectus in a form reasonably approved by you and to file such Prospectus pursuant to Rule 424(b) under the Act not later than the Commission's close of business on the second business day following the execution and delivery of this Agreement; (ii) to make no further amendment or any supplement to the Registration Statement, the Basic Prospectus or the Prospectus prior to the last Time of Delivery which shall be disapproved by you promptly after reasonable notice thereof; (iii) to advise you, promptly after it receives notice thereof, of the time when any amendment to the Registration Statement has been filed or becomes effective or any amendment or supplement to the Prospectus has been filed and to furnish you with copies thereof; (iv) to file promptly all reports and any definitive proxy or information statements required to be filed by the Company with the Commission pursuant to Section 13(a), 13(c), 14 or 15(d) of the Exchange Act subsequent to the date of the Prospectus and for so long as the delivery of a prospectus (or in lieu thereof, the notice referred to in Rule 173(a) under the Act) is required in connection with the offering or sale of the Securities; (v) to advise you, promptly after it receives notice thereof, of the issuance by the Commission of any stop order or of any order preventing or suspending the use of any Preliminary Prospectus or other prospectus in respect of the Securities, of any notice of objection of the Commission to the use of the Registration Statement or any post-effective amendment thereto pursuant to Rule 401(g)(2) under the Act, of the suspension of the qualification of the Securities for offering or sale in any jurisdiction, of the initiation or threatening of any proceeding for any such purpose, or of any request by the Commission for the amending or supplementing of the Registration Statement or the Prospectus or for additional information; and (vii) in the event of the issuance of any stop order or of any order preventing or suspending the use of any Preliminary Prospectus or other prospectus or suspending any such qualification, to promptly use its reasonable best efforts to obtain the withdrawal of such order and in the event of any such issuance of a notice of objection, promptly to take such steps including, without limitation, amending the Registration Statement or filing a new registration statement, at its own expense, as may be necessary to permit offers and sales of the Securities by the Underwriters (references herein to the Registration Statement shall include any such amendment or new registration statement);

(b) If required by Rule 430B(h) under the Act, to prepare a form of prospectus in a form approved by you and to file such form of prospectus pursuant to Rule 424(b) under the Act not later than may be required by Rule 424(b) under the Act; and to make no further amendment or supplement to such form of prospectus which shall be disapproved by you promptly after reasonable notice thereof;

(c) If by the third anniversary (the “Renewal Deadline”) of the initial effective date of the Registration Statement, any of the Securities remain unsold by the Underwriters, the Company will file, if it has not already done so and is eligible to do so, a new automatic shelf registration statement relating to the Securities, in a form satisfactory to you. If at the Renewal Deadline the Company is no longer eligible to file an automatic shelf registration statement, the Company will, if it has not already done so, file a new shelf registration statement relating to the Securities, in a form satisfactory to you and will use its best efforts to cause such registration statement to be declared effective within 180 days after the Renewal Deadline. The Company will take all other action necessary or appropriate to permit the public offering and sale of the Securities to continue as contemplated in the expired registration statement relating to the Securities. References herein to the Registration Statement shall include such new automatic shelf registration statement or such new shelf registration statement, as the case may be;

(d) Promptly from time to time to take such action as the Representative may reasonably request to qualify the Securities for offering and sale under the securities laws of such jurisdictions as the Representative may reasonably request and to comply with such laws so as to permit the continuance of sales and dealings therein in such jurisdictions for as long as may be necessary to complete the distribution of the Securities, provided that in connection therewith the Company shall not be required to qualify as a foreign corporation or to file a general consent to service of process in any jurisdiction or subject itself to taxation in any jurisdiction in which it is not otherwise subject to taxation on the date hereof;

(e) Prior to 10:00 a.m., New York City time, on the New York Business Day next succeeding the date of this Agreement and from time to time, to furnish the Underwriters with written and electronic copies of the Prospectus and, if the delivery of a prospectus (or in lieu thereof, the notice referred to in Rule 173(a) under the Act) is required at any time prior to the expiration of nine months after the time of issue of the Prospectus in connection with the offering or sale of the Securities and if at such time any event shall have occurred as a result of which the Prospectus as then amended or supplemented would include an untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made when such Prospectus (or in lieu thereof, the notice referred to in Rule 173(a) under the Act) is delivered, not misleading, or, if for any other reason it shall be necessary during such period to amend or supplement the Prospectus or to file under the Exchange Act any document incorporated by reference therein in order to comply with the Act or the Exchange Act, to notify you and upon your request to file such document and to prepare and furnish without charge to each Underwriter and to any dealer in securities (whose name and address the Representative shall furnish in writing to the Company) an electronic copy as you may from time to time reasonably request of an amended Prospectus or a supplement to the Prospectus which will correct such statement or omission or effect such compliance; and in case any Underwriter is required to deliver a prospectus (or in lieu thereof, the notice referred to in Rule 173(a) under the Act) in connection with sales of any of the Securities at any time nine months or more after the time of issue of the Prospectus, upon your request but at the expense of such Underwriter, to prepare and deliver to such Underwriter as many written and electronic copies as you may reasonably request of an amended or supplemented Prospectus complying with Section 10(a)(3) of the Act;

(f) To make generally available to its securityholders as soon as practicable (which may be satisfied by filing with the Commission’s Electronic Data Gathering, Analysis and Retrieval System (“EDGAR”)), but in any event not later than sixteen months after the effective date of the Registration Statement (as defined in Rule 158(c) under the Act), an earnings statement of the Company and its subsidiaries (which need not be audited) complying with Section 11(a) of the Act and the rules and regulations of the Commission thereunder (including, at the option of the Company, Rule 158);

(g) During the period beginning from the date hereof and continuing to and including the date 90 days after the date of the Prospectus (the “Restricted Period”), not to, without the prior written consent of Goldman Sachs & Co. LLC, (i) offer, sell, contract to sell, pledge, grant any option to purchase, make any short sale or otherwise transfer or dispose of, directly or indirectly, or file with the Commission a registration statement under the Act relating to, any securities of the Company that are substantially similar to the Securities or the Common Stock, including but not limited to any options or warrants to purchase shares of Common Stock or any securities that are convertible into or exchangeable for, or that represent the right to receive, Common Stock or any such substantially similar securities, or publicly disclose the intention to make any offer, sale, pledge, disposition or filing or (ii) enter into any swap or other agreement that transfers, in whole or in part, any of the economic consequences of ownership of the Common Stock or any such other securities, whether any such transaction described in clause (i) or (ii) above is to be settled by delivery of Common Stock or such other securities, in cash or otherwise. The foregoing restrictions shall not apply to (A) the Securities to be sold hereunder and the issuance of the Conversion Securities and the filing of a registration statement, including any amendments thereto, with respect to the Conversion Securities, (B) the issuance of the Common Stock pursuant to the Common Stock Offering and the filing of a registration statement, including any amendments thereto, with respect to the registration of the Common Stock, (C) any securities of the Company issued pursuant to the Company’s equity incentive plans described in the Registration Statement, the Prospectus or any documents incorporated by reference therein, or upon the exercise of stock options or stock appreciation rights or the vesting of restricted stock or performance awards granted thereunder, (D) facilitating the establishment of a trading plan on behalf of a shareholder, officer or director of the Company pursuant to Rule 10b5-1 under the Exchange Act for the transfer of shares of Common Stock provided that (x) such plan does not provide for the transfer of Common Stock during the Restricted Period and (y) to the extent a public announcement or filing under the Exchange Act, if any, is required of or voluntarily made by the Company regarding the establishment of such plan, such announcement or filing shall include a statement to the effect that no transfer of Common Stock may be made under such plan during the Restricted Period, (E) the filing of any registration statement on Form S-8 relating to securities granted or to be granted pursuant to the Company’s equity incentive plans, (F) entry into any agreement providing for the issuance by the Company of shares of Common Stock or any securities convertible into or exercisable for shares of Common Stock in connection with the acquisition by the Company or any of its subsidiaries of the securities, business, property or other assets of another person or entity, and (G) pursuant to an employee benefit plan assumed by the Company or a subsidiary in connection with an acquisition (including the Acquisition), the issuance of securities pursuant to any acquisition agreement or the entry into any agreement providing for the issuance of shares of Common Stock or any security convertible into or exercisable for shares of Common Stock in connection with joint ventures, commercial relationships or other strategic transactions, and the issuance of any securities pursuant to any such agreement; provided that in the case of clause (G), the aggregate number of shares of Common Stock (or as converted Common Stock in the case of securities convertible into Common Stock or the right to receive shares of Common Stock) that the Company may sell, issue or agree to sell or issue shall not exceed 10% of the total number of shares of Common Stock outstanding immediately following the offering of Common Stock contemplated by this Agreement;

(h) To pay the required Commission filing fees relating to the Securities within the time required by Rule 456(b)(1) under the Act without regard to the proviso therein and otherwise in accordance with Rules 456(b) and 457(r) under the Act;

(i) To use the net proceeds received by it from the sale of the Securities pursuant to this Agreement in the manner specified in the Pricing Prospectus under the caption “Use of Proceeds”;

(j) To use its reasonable best efforts to list for trading, as promptly as is practicable after the date hereof, the Securities and a number of Conversion Securities equal to the Maximum Number of Conversion Securities on the Nasdaq Global Select Market (the “Exchange”);

(k) Beginning at the First Time of Delivery and continuing through October 15, 2024, the Company will reserve and keep available at all times, free of preemptive or similar rights, a number of Conversion Securities equal to the Maximum Number of Conversion Securities; and

(l) During the period from and including the date hereof through and including the earlier of (a) the purchase by the Underwriters of all of the Option Securities and (b) the expiration of the Underwriters’ option to purchase Option Securities, the Company will not do or authorize or cause any act or thing that would result in an adjustment of the conversion rate of the Securities.

6. (a) The Company represents that it has not made, and agrees that, without the prior consent of the Representative, it will not make, any offer relating to the Securities that would constitute a “free writing prospectus” as defined in Rule 405 under the Act; and each Underwriter represents that it has not made, and agrees that, without the prior consent of the Company and the Representative, it will not make any offer relating to the Securities that would constitute a free writing prospectus required to be filed with the Commission; any such free writing prospectus the use of which has been consented to by the Company and the Representative is listed on Schedule II(a) hereto;

(b) The Company has complied and will comply with the requirements of Rule 433 under the Act applicable to any Issuer Free Writing Prospectus, including timely filing with the Commission or retention where required and legending; and

(c) The Company agrees that if at any time following issuance of an Issuer Free Writing Prospectus any event occurs as a result of which such Issuer Free Writing Prospectus would conflict with the information in the Registration Statement, the Pricing Prospectus or the Prospectus or would include an untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances then prevailing, not misleading, the Company will give prompt notice thereof to the Representative and, if requested by the Representative, will prepare and furnish without charge to each Underwriter an Issuer Free Writing Prospectus or other document which will correct such conflict, statement or omission; provided, however, that this covenant shall not apply to any statements or omissions in an Issuer Free Writing Prospectus made in reliance upon and in conformity with the Underwriter Information.

7. The Company covenants and agrees with the several Underwriters that the Company will pay or cause to be paid the following: (i) the fees, disbursements and expenses of the Company’s counsel and accountants in connection with the registration of the Securities under the Act and all other expenses in connection with the preparation, printing, reproduction and filing of the Registration Statement, the Basic Prospectus, any Preliminary Prospectus, any Issuer Free Writing Prospectus and the Prospectus and amendments and supplements thereto and the mailing and delivering of copies thereof to the Underwriters and dealers; (ii) the reasonably incurred costs of printing or producing any Agreement among Underwriters, this Agreement, the Blue Sky Memorandum, closing documents (including any compilations thereof) and any other documents in connection with the offering, purchase, sale and delivery of the Securities; (iii) all reasonably incurred expenses in connection with the qualification of the Securities and the Conversion Securities for offering and sale under state securities laws as provided in Section 5(d) hereof, including the reasonable fees and disbursements of counsel for the Underwriters in connection with such qualification and in connection with the Blue Sky survey; (iv) all fees and expenses in connection with listing the Securities and the Conversion Securities on the Exchange; (v) the filing fees incident to, and the reasonable and documented fees and disbursements of counsel for the Underwriters in connection with, any required review by FINRA of the terms of the sale of the Securities; (vi) the cost of preparing stock certificates, if applicable; (vii) the cost and charges of any transfer agent or registrar; and (viii) all other costs and expenses incident to the performance of its obligations hereunder which are not otherwise specifically provided for in this Section; provided that the aggregate amount payable by the Company with respect to fees and disbursements of counsel for the Underwriters pursuant to clauses (iii) and (v) of this Section 7 shall not exceed \$20,000. It is understood, however, that, except as provided in this Section, and Sections 9 and 12 hereof, the Underwriters will pay all of their own costs and expenses, including the fees of their counsel, stock transfer taxes on resale of any of the Securities by them, and any advertising expenses connected with any offers they may make.

8. The obligations of the Underwriters hereunder, as to the Securities to be delivered at each Time of Delivery shall be subject, in their discretion, to the condition that all representations and warranties and other statements of the Company herein are, at and as of the Applicable Time and such Time of Delivery, true and correct, the condition that the Company shall have performed all of its obligations hereunder theretofore to be performed in all material respects, and the following additional conditions:

(a) (i) The Prospectus shall have been filed with the Commission pursuant to Rule 424(b) under the Act within the applicable time period prescribed for such filing by the rules and regulations under the Act and in accordance with Section 5(a) hereof; (ii) all material required to be filed by the Company pursuant to Rule 433(d) under the Act shall have been filed with the Commission within the applicable time period prescribed for such filings by Rule 433; (iii) no stop order suspending the effectiveness of the Registration Statement or any part thereof shall have been issued and no proceeding for that purpose shall have been initiated or threatened by the Commission and no notice of objection of the Commission to the use of the Registration Statement or any post-effective amendment thereto pursuant to Rule 401(g)(2) under the Act shall have been received; (iv) no stop order suspending or preventing the use of the Preliminary Prospectus, Prospectus or any Issuer Free Writing Prospectus shall have been initiated or threatened by the Commission; and (v) all requests for additional information on the part of the Commission shall have been complied with to your reasonable satisfaction;

(b) Latham & Watkins LLP, counsel for the Underwriters, shall have furnished to you such written opinion or opinions, dated such Time of Delivery, in form and substance reasonably satisfactory to you, and such counsel shall have received such papers and information as they may reasonably request to enable them to pass upon such matters;

(c) Kirkland & Ellis LLP, counsel for the Company, shall have furnished to you their written opinion, dated each Time of Delivery, in form and substance reasonably satisfactory to you;

(e) On the date of the Prospectus, on the effective date of any post-effective amendment to the Registration Statement filed subsequent to the date of this Agreement and also at each Time of Delivery, Ernst & Young LLP shall have furnished to you a letter or letters, dated the respective dates of delivery thereof, in form and substance reasonably satisfactory to you;

(f) On the date of the Prospectus, on the effective date of any post-effective amendment to the Registration Statement filed subsequent to the date of this Agreement and also at each Time of Delivery, KPMG AG shall have furnished to you a letter or letters, dated the respective dates of delivery thereof, in form and substance reasonably satisfactory to you;

(g) (i) Neither the Company nor any of its Subsidiaries shall have sustained since the date of the latest audited financial statements included or incorporated by reference in the Pricing Prospectus any loss or interference with its business from fire, explosion, flood or other calamity, whether or not covered by insurance, or from any court or governmental action, order or decree that would reasonably be expected to result in a Material Adverse Effect, otherwise than as set forth or contemplated in the Pricing Prospectus, and (ii) since the respective dates as of which information is given in the Pricing Prospectus there shall not have been any change in the capital stock (other than in connection with the Mandatory Convertible Preferred Stock Offering or as a result of the exercise of stock options, the exercise of stock appreciation rights, the vesting of restricted stock, the granting or forfeiture of stock options, restricted stock units or other equity awards in the ordinary course of business pursuant to the Company's equity incentive plans) or long-term debt of the Company or any of its Subsidiaries (other than in connection with any voluntary prepayments of long-term debt of the Company or any of its Subsidiaries or indebtedness incurred pursuant to the Senior Notes Offering or the Senior Secured Credit Facilities) or any change or effect, that would reasonably be expected to result in a Material Adverse Effect, except as set forth or contemplated in the Pricing Prospectus and the Prospectus, the effect of which, in any such case described in clause (i) or (ii), is in your judgment so material and adverse as to make it impracticable or inadvisable to proceed with the public offering or the delivery of the Securities being delivered at such Time of Delivery on the terms and in the manner contemplated in the Pricing Prospectus and the Prospectus;



(h) On or after the Applicable Time (i) no downgrading shall have occurred in the rating accorded the Company's debt securities by any "nationally recognized statistical rating organization", as defined in Section 3(a)(62) of the Exchange Act, and (ii) no such organization shall have publicly announced that it has under surveillance or review, with possible negative implications, its rating of any of the Company's debt securities;

(i) On or after the Applicable Time there shall not have occurred any of the following: (i) a suspension or material limitation in trading in securities generally on the Exchange; (ii) a suspension or material limitation in trading in the Company's securities on the Exchange; (iii) a general moratorium on commercial banking activities declared by either Federal or New York State authorities or a material disruption in commercial banking or securities settlement or clearance services in the United States; (iv) the outbreak or escalation of hostilities involving the United States or the declaration by the United States of a national emergency or war; or (v) the occurrence of any other calamity or crisis or any change in financial, political or economic conditions in the United States or elsewhere, if the effect of any such event specified in clause (iv) or (v) in your judgment, is material and adverse, and makes it impracticable or inadvisable to proceed with the public offering or the delivery of the Securities being delivered at such Time of Delivery on the terms and in the manner contemplated in the Pricing Prospectus and the Prospectus;

(j) The Company shall have applied for the listing on the Exchange of the Maximum Number of Conversion Securities in connection with the number of Securities to be sold at each Time of Delivery and shall use its reasonable best efforts to list such Maximum Number of Conversion Securities on the Exchange at the applicable Time of Delivery, subject to official notice of issuance;

(k) The Certificate of Designations shall have been filed with the Secretary of State of the State of Delaware and become effective and the Company shall have delivered evidence of such filing and effectiveness to the Representatives in form and substance reasonably satisfactory to the Representatives;

(l) The Company has obtained and delivered to the Underwriters executed copies of an agreement from each executive officer and director of the Company, substantially to the effect set forth in Annex I hereto in form and substance reasonably satisfactory to you;

(m) The Company shall have complied with the provisions of Section 5(e) hereof with respect to the furnishing of prospectuses within two New York Business Days following the date of this Agreement; and

(n) The Company shall have furnished or caused to be furnished to you at such Time of Delivery certificates of officers of the Company reasonably satisfactory to you as to (i) the accuracy of the representations and warranties of the Company, herein at and as of such Time of Delivery, (ii) the performance by the Company in all material respects of all of its obligations hereunder to be performed at or prior to such Time of Delivery, and (iii) the matters set forth in subsections (a) and (g) of this Section 8.

9. (a) The Company will indemnify and hold harmless each Underwriter against any losses, claims, damages or liabilities, joint or several, to which such Underwriter may become subject, under the Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon an untrue statement or alleged untrue statement of a material fact contained in the Registration Statement, the Basic Prospectus, any Preliminary Prospectus, the Pricing Prospectus or the Prospectus, or any amendment or supplement thereto, any Issuer Free Writing Prospectus, any "roadshow" as defined in Rule 433(h) under the Act (a "roadshow"), any "issuer information" filed or required to be filed pursuant to Rule 433(d) under the Act or any Testing-the-Waters Communication, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, and will reimburse each Underwriter for any legal or other expenses reasonably incurred by such Underwriter in connection with investigating or defending any such action or claim as such expenses are incurred; provided, however, that the Company shall not be liable in any such case to the extent that any such loss, claim, damage or liability arises out of or is based upon an untrue statement or alleged untrue statement or omission or alleged omission made in the Registration Statement, the Basic Prospectus, any Preliminary Prospectus, the Pricing Prospectus or the Prospectus, or any amendment or supplement thereto, or any Issuer Free Writing Prospectus, in reliance upon and in conformity with the Underwriter Information.

(b) Each Underwriter, severally and not jointly, will (i) indemnify and hold harmless the Company, the directors of the Company, the officers who sign the Registration Statement and each person, if any, who controls the Company within the meaning of Section 15 of the Act or Section 20 of the Exchange Act (collectively, the “Company Indemnitees”), against any losses, claims, damages or liabilities to which the Company Indemnitees may become subject, under the Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon an untrue statement or alleged untrue statement of a material fact contained in the Registration Statement, the Basic Prospectus, any Preliminary Prospectus, the Pricing Prospectus or the Prospectus, or any amendment or supplement thereto, or any Issuer Free Writing Prospectus, or any roadshow, or any Testing-the-Waters Communication, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, in each case to the extent, but only to the extent, that such untrue statement or alleged untrue statement or omission or alleged omission was made in the Registration Statement, the Basic Prospectus, any Preliminary Prospectus, the Pricing Prospectus or the Prospectus, or any such amendment or supplement thereto, or any Issuer Free Writing Prospectus, or any roadshow, or any Testing-the-Waters Communication, in reliance upon and in conformity with the Underwriter Information, and (ii) reimburse the Company Indemnities for any legal or other expenses reasonably incurred by the Company Indemnities in connection with investigating or defending any such action or claim as such expenses are incurred. As used in this Agreement with respect to an Underwriter and an applicable document, “Underwriter Information” shall mean the written information furnished to the Company by such Underwriter through the Representative expressly for use therein; it being understood and agreed upon that the only such information furnished by any Underwriter consists of the following information in the Prospectus furnished on behalf of each Underwriter: the information contained in the fifth, eighth, ninth, tenth and eleventh paragraphs under the caption “Underwriting.”

(c) Promptly after receipt by an indemnified party under subsection (a) or (b) of this Section 9 of notice of the commencement of any action, such indemnified party shall, if a claim in respect thereof is to be made against the indemnifying party under such subsection, notify the indemnifying party in writing of the commencement thereof; provided that the failure to notify the indemnifying party shall not relieve it from any liability that it may have under the preceding paragraphs of this Section 9 except to the extent that it has been materially prejudiced (through the forfeiture of substantive rights or defenses) by such failure; and provided further that the failure to notify the indemnifying party shall not relieve it from any liability that it may have to an indemnified party otherwise than under the preceding paragraphs of this Section 9. In case any such action shall be brought against any indemnified party and it shall notify the indemnifying party of the commencement thereof, the indemnifying party shall be entitled to participate therein and, to the extent that it shall wish, jointly with any other indemnifying party similarly notified, to assume the defense thereof, with counsel reasonably satisfactory to such indemnified party (who shall not, except with the consent of the indemnified party, be counsel to the indemnifying party), and, after notice from the indemnifying party to such indemnified party of its election so to assume the defense thereof, the indemnifying party shall not be liable to such indemnified party under such subsection for any legal expenses of other counsel or any other expenses, in each case subsequently incurred by such indemnified party, in connection with the defense thereof other than reasonable costs of investigation. No indemnifying party shall, without the written consent of the indemnified party, effect the settlement or compromise of, or consent to the entry of any judgment with respect to, any pending or threatened action or claim in respect of which indemnification or contribution may be sought hereunder (whether or not the indemnified party is an actual or potential party to such action or claim) unless such settlement, compromise or judgment (A) includes an unconditional release of the indemnified party from all liability arising out of such action or claim and (B) does not include a statement as to or an admission of fault, culpability or a failure to act, by or on behalf of any indemnified party. An indemnifying party shall not be required to indemnify an indemnified party for any amount paid or payable by the indemnified party in the settlement of any action, proceeding or investigation without the written consent of the indemnifying party, which consent shall not be unreasonably withheld, but if settled with such consent or if there be a final judgment for the plaintiff, the indemnifying party agrees to indemnify the indemnified party from and against any loss or liability by reason of such settlement or judgment. Notwithstanding the foregoing sentence, if at any time an indemnified party shall have requested by written notice that an indemnifying party indemnify an indemnified party for any fees and expenses of counsel as set forth in the foregoing sentence, the indemnifying party shall be liable for any settlement of any proceeding effected without its written consent if (i) such settlement is entered into more than 30 days after receipt by the indemnifying party of such written request and (ii) the indemnifying party shall not have reimbursed the indemnified party in accordance with such written request prior to the date of such settlement.

(d) If the indemnification provided for in this Section 9 is unavailable to or insufficient to hold harmless an indemnified party under subsection (a) or (b) above in respect of any losses, claims, damages or liabilities (or actions in respect thereof) referred to therein, then each indemnifying party shall contribute to the amount paid or payable by such indemnified party as a result of such losses, claims, damages or liabilities (or actions in respect thereof) in such proportion as is appropriate to reflect the relative benefits received by the Company on the one hand and the Underwriters on the other from the offering of the Securities. If, however, the allocation provided by the immediately preceding sentence is not permitted by applicable law, then each indemnifying party shall contribute to such amount paid or payable by such indemnified party in such proportion as is appropriate to reflect not only such relative benefits but also the relative fault of the Company on the one hand and the Underwriters on the other in connection with the statements or omissions which resulted in such losses, claims, damages or liabilities (or actions in respect thereof), as well as any other relevant equitable considerations. The relative benefits received by the Company on the one hand and the Underwriters on the other shall be deemed to be in the same proportion as the total net proceeds from the offering (before deducting expenses) received by the Company bear to the total underwriting discounts and commissions received by the Underwriters, in each case as set forth in the table on the cover page of the Prospectus. The relative fault shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company on the one hand or the Underwriters on the other and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. The Company and the Underwriters agree that it would not be just and equitable if contribution pursuant to this subsection (e) were determined by pro rata allocation (even if the Underwriters were treated as one entity for such purpose) or by any other method of allocation which does not take account of the equitable considerations referred to above in this subsection (d). The amount paid or payable by an indemnified party as a result of the losses, claims, damages or liabilities (or actions in respect thereof) referred to above in this subsection (d) shall be deemed to include any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action or claim. Notwithstanding the provisions of this subsection (d), no Underwriter shall be required to contribute any amount in excess of the amount by which the total price at which the Securities underwritten by it and distributed to the public were offered to the public exceeds the amount of any damages which such Underwriter has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. The Underwriters' obligations in this subsection (d) to contribute are several in proportion to their respective underwriting obligations and not joint.

(e) The obligations of the Company under this Section 9 shall be in addition to any liability which the Company may otherwise have and shall extend, upon the same terms and conditions, to each employee, officer and director of each Underwriter and each person, if any, who controls any Underwriter within the meaning of the Act and each broker-dealer or other affiliate of any Underwriter; and the obligations of the Underwriters under this Section 9 shall be in addition to any liability which the respective Underwriters may otherwise have and shall extend, upon the same terms and conditions, to each officer and director of the Company (including any person who, with his or her consent, is named in the Registration Statement as about to become a director of the Company) and to each person, if any, who controls the Company within the meaning of the Act.

10. (a) If any Underwriter shall default in its obligation to purchase the Securities that it has agreed to purchase hereunder at a Time of Delivery, the Representative may in their discretion arrange for the Representative or another party or other parties to purchase such Securities on the terms contained herein. If within thirty-six hours after such default by any Underwriter the Representative do not arrange for the purchase of such Securities, then the Company shall be entitled to a further period of thirty-six hours within which to procure another party or other parties satisfactory to the Representative to purchase such Securities on such terms. In the event that, within the respective prescribed periods, the Representative notify the Company that they have so arranged for the purchase of such Securities, or the Company notifies the Representative that it has so arranged for the purchase of such Securities, the Representative or the Company shall have the right to postpone such Time of Delivery for a period of not more than seven days in order to effect whatever changes may thereby be made necessary in the Registration Statement or the Prospectus, or in any other documents or arrangements, and the Company agrees to file promptly any amendments or supplements to the Registration Statement or the Prospectus which in the Representative's opinion may thereby be made necessary. The term "Underwriter" as used in this Agreement shall include any person substituted under this Section with like effect as if such person had originally been a party to this Agreement with respect to such Securities.

(b) If, after giving effect to any arrangements for the purchase of the Securities of a defaulting Underwriter or Underwriters by the Representative and the Company as provided in subsection (a) above, the aggregate number of such Securities which remains unpurchased does not exceed one-eleventh of the aggregate number of all the Securities to be purchased at such Time of Delivery, then the Company shall have the right to require each non-defaulting Underwriter to purchase the number of Securities which such Underwriter agreed to purchase hereunder at such Time of Delivery and, in addition, to require each non-defaulting Underwriter to purchase its pro rata share (based on the number of Securities which such Underwriter agreed to purchase hereunder) of the Securities of such defaulting Underwriter or Underwriters for which such arrangements have not been made; but nothing herein shall relieve a defaulting Underwriter from liability for its default.

(c) If, after giving effect to any arrangements for the purchase of the Securities of a defaulting Underwriter or Underwriters by the Representative and the Company as provided in subsection (a) above, the aggregate number of such Securities which remains unpurchased exceeds one-eleventh of the aggregate number of all the Securities to be purchased at such Time of Delivery, or if the Company shall not exercise the right described in subsection (b) above to require non-defaulting Underwriters to purchase Securities of a defaulting Underwriter or Underwriters, then this Agreement (or, with respect to a Second Time of Delivery, the obligations of the Underwriters to purchase and of the Company to sell the Optional Securities) shall thereupon terminate, without liability on the part of any non-defaulting Underwriter or the Company, except for the expenses to be borne by the Company and the Underwriters as provided in Section 7 hereof and the indemnity and contribution agreements in Section 9 hereof; but nothing herein shall relieve a defaulting Underwriter from liability for its default.

11. The respective indemnities, rights of contribution, agreements, representations, warranties and other statements of the Company and the several Underwriters, as set forth in this Agreement or made by or on behalf of them, respectively, pursuant to this Agreement, shall remain in full force and effect, regardless of any investigation (or any statement as to the results thereof) made by or on behalf of any Underwriter or any controlling person of any Underwriter, or the Company, or any officer or director or controlling person of the Company, and shall survive delivery of and payment for the Securities.

12. If this Agreement shall be terminated pursuant to Section 10 hereof, the Company shall not then be under any liability to any Underwriter except as provided in Sections 7 and 9 hereof; but, if for any other reason (other than those set forth in clauses (i), (iii), (iv) and (v) of Section 8(i)), any Securities are not delivered by or on behalf of the Company as provided herein, the Company will reimburse the Underwriters through you for all reasonable and documented out-of-pocket expenses approved in writing by you, including fees and disbursements of counsel, reasonably incurred by the Underwriters in making preparations for the purchase, sale and delivery of the Securities not so delivered, but the Company shall then be under no further liability to any Underwriter except as provided in Sections 7 and 9 hereof.

13. In all dealings hereunder, the Representative shall act on behalf of each of the Underwriters, and the parties hereto shall be entitled to act and rely upon any statement, request, notice or agreement on behalf of any Underwriter made or given by the Representative.

In accordance with the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)), the Underwriters are required to obtain, verify and record information that identifies their respective clients, including the Company, which information may include the name and address of their respective clients, as well as other information that will allow the Underwriters to properly identify their respective clients.

All statements, requests, notices and agreements hereunder shall be in writing, and if to the Underwriters shall be delivered or sent by mail, telex or facsimile transmission to Goldman Sachs & Co. LLC, 200 West Street, New York, New York 10282, Attention: Registration Department; if to the Company shall be delivered or sent by mail or facsimile transmission to the address of the Company set forth on the cover of the Registration Statement, Attention: John J. Feeney; provided, however, that any notice to an Underwriter pursuant to Section 9(c) hereof shall be delivered or sent by mail, telex or facsimile transmission to such Underwriter at its address set forth in its Underwriters' Questionnaire or telex constituting such Questionnaire, which address will be supplied to the Company by you on request. Any such statements, requests, notices or agreements shall take effect upon receipt thereof.

14. This Agreement shall be binding upon, and inure solely to the benefit of, the Underwriters and the Company and, to the extent provided in Sections 9 and 11 hereof, the officers and directors of the Company and each person who controls the Company or any Underwriter, or any director, officer, employee, or affiliate of any Underwriter, and their respective heirs, executors, administrators, successors and assigns, and no other person shall acquire or have any right under or by virtue of this Agreement. No purchaser of any of the Securities from any Underwriter shall be deemed a successor or assign by reason merely of such purchase.

15. Time shall be of the essence of this Agreement. As used herein, the term “business day” shall mean any day when the Commission’s office in Washington, D.C. is open for business.

16. The Company acknowledges and agrees that (i) the purchase and sale of the Securities pursuant to this Agreement is an arm’s-length commercial transaction between the Company on the one hand, and the several Underwriters, on the other, (ii) in connection therewith and with the process leading to such transaction each Underwriter is acting solely as a principal and not the agent or fiduciary of the Company, (iii) no Underwriter has assumed an advisory or fiduciary responsibility in favor of the Company with respect to the offering contemplated hereby or the process leading thereto (irrespective of whether such Underwriter has advised or is currently advising the Company on other matters) or any other obligation to the Company except the obligations expressly set forth in this Agreement, (iv) the Company has consulted its own legal and financial advisors to the extent it deemed appropriate, and (v) none of the activities of the Underwriters in connection with the transactions contemplated herein constitutes a recommendation, investment advice, or solicitation of any action by the Underwriters with respect to any entity or natural person. The Company agrees that it will not claim that the Underwriters, or any of them, has rendered advisory services of any nature or respect, or owes a fiduciary or similar duty to the Company, in connection with such transaction or the process leading thereto.

17. This Agreement supersedes all prior agreements and understandings (whether written or oral) between the Company and the Underwriters, or any of them, with respect to the subject matter hereof.

**18. This Agreement and any transaction contemplated by this Agreement and any claim, controversy or dispute arising under or related thereto shall be governed by and construed in accordance with the laws of the State of New York without regard to principles of conflict of laws that would result in the application of any other law than the laws of the State of New York. The Company agrees that any suit or proceeding arising in respect of this Agreement or any transaction contemplated by this Agreement will be tried exclusively in the U.S. District Court for the Southern District of New York or, if that court does not have subject matter jurisdiction, in any state court located in The City and County of New York and the Company agrees to submit to the jurisdiction of, and to venue in, such courts.**

19. The Company and each of the Underwriters hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Agreement or the transactions contemplated hereby.

20. This Agreement may be executed by any one or more of the parties hereto in any number of counterparts, each of which shall be deemed to be an original, but all such respective counterparts shall together constitute one and the same instrument. Counterparts may be delivered via facsimile, electronic mail (including any electronic signature covered by the U.S. federal E-SIGN Act of 2000, Uniform Electronic Transactions Act, the Electronic Signatures and Records Act or other applicable law, e.g., [www.docusign.com](http://www.docusign.com)) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

21. Notwithstanding anything herein to the contrary, the Company is authorized to disclose to any persons the U.S. federal and state income tax treatment and tax structure of the potential transaction and all materials of any kind (including tax opinions and other tax analyses) provided to the Company relating to that treatment and structure, without the Underwriters imposing any limitation of any kind. However, any information relating to the tax treatment and tax structure shall remain confidential (and the foregoing sentence shall not apply) to the extent necessary to enable any person to comply with securities laws. For this purpose, “tax structure” is limited to any facts that may be relevant to that treatment.

## 22. Recognition of the U.S. Special Resolution Regimes.

(a) In the event that any Underwriter that is a Covered Entity becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer from such Underwriter of this Agreement, and any interest and obligation in or under this Agreement, will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if this Agreement, and any such interest and obligation, were governed by the laws of the United States or a state of the United States.

(b) In the event that any Underwriter that is a Covered Entity or a BHC Act Affiliate of such Underwriter becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under this Agreement that may be exercised against such Underwriter are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if this Agreement were governed by the laws of the United States or a state of the United States.

(c) As used in this section:

“BHC Act Affiliate” has the meaning assigned to the term “affiliate” in, and shall be interpreted in accordance with, 12 U.S.C. § 1841(k).

“Covered Entity” means any of the following:

(i) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b);

(ii) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or

(iii) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

“Default Right” has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

“U.S. Special Resolution Regime” means each of (i) the Federal Deposit Insurance Act and the regulations promulgated thereunder and (ii) Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act and the regulations promulgated thereunder.

If the foregoing is in accordance with your understanding, please sign and return to us one for the Company and the Representative’s counterpart hereof, and upon the acceptance hereof by you, on behalf of each of the Underwriters, this letter and such acceptance hereof shall constitute a binding agreement between each of the Underwriters and the Company. It is understood that your acceptance of this letter on behalf of each of the Underwriters is pursuant to the authority set forth in a form of Agreement among Underwriters, the form of which shall be submitted to the Company for examination, upon request, but without warranty on your part as to the authority of the signers thereof.

Very truly yours,

**RBC Bearings Incorporated**

**By:** /s/ Michael J. Hartnett

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**Name:** Michael J. Hartnett

**Title:** Chairman, President and Chief  
Executive Officer

Accepted as of the date hereof

**Goldman Sachs & Co. LLC**

**By:** /s/ Raffael Fiumara

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**Name:** Raffael Fiumara

**Title:** Vice President

On behalf of each of the Underwriters

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SCHEDULE I

<b>Underwriter</b>	<b>Total Number of Firm Securities to be Purchased</b>
Goldman Sachs & Co. LLC	1,601,200
Wells Fargo Securities, LLC	800,800
BofA Securities, Inc.	328,000
Citigroup Global Markets Inc.	328,000
Truist Securities, Inc.	184,400
Citizens Capital Markets, Inc.	154,400
Fifth Third Securities, Inc.	154,400
KeyBanc Capital Markets Inc.	154,400
Regions Securities LLC	154,400
Morgan Stanley & Co. LLC	60,000
Academy Securities, Inc.	40,000
William Blair & Company, L.L.C.	40,000
<b>Total:</b>	<b>4,000,000</b>



**SCHEDULE II**

- (a) Issuer Free Writing Prospectuses not included in the Pricing Disclosure Package  
None
  - (b) Issuer Free Writing Prospectuses included in the Pricing Disclosure Package  
Free Writing Prospectus relating to the Securities dated September 21, 2021 and filed with the Commission
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### SCHEDULE III

Roller Bearing Company of America, Inc.  
RBC Precision Products, Inc.  
Industrial Tectonics Bearings Corporation  
RBC Nice Bearings, Inc.  
RBC Lubron Bearing Systems, Inc.  
RBC Oklahoma, Inc.  
RBC Aircraft Products, Inc.  
RBC Southwest Products, Inc.  
All Power Manufacturing Co.  
RBC Aerostructures LLC  
Western Precision Aero LLC  
Climax Metal Products Company  
RBC Turbine Components LLC  
Sargent Aerospace and Defense LLC  
Airtomic LLC  
Sonic Industries, Inc.  
RBC de Mexico S DE RL DE CV  
Schaublin Holding SA  
Schaublin SA  
RBC France SAS  
Shanghai Representative Office of Roller Bearing Company of America, Inc.  
RBC Bearings U.K. Limited  
RBC Bearings Polska sp. z o.o.  
All Power de Mexico, S DE RL DE CV  
RBC Bearings Canada, Inc.  
Schaublin GmbH  
Vanel Holding AG  
Beck Bühler Mutschler Capital AG  
Bär und Mettler AG  
MBM Monstein Bär Mettler Modulare Werkzeugsysteme AG  
Swiss Tool Systems AG  
Dodge Acquisition Co.

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**FORM OF LOCK-UP AGREEMENT**

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**RBC Bearings Incorporated**

**Lock-Up Agreement**

[ • ], 2021

Goldman Sachs & Co. LLC  
200 West Street  
New York, NY 10282-2198

Re: RBC Bearings Incorporated - Lock-Up Agreement

Ladies and Gentlemen:

The undersigned understands that you, as the representative (the "Representative"), propose to enter into an underwriting agreement on behalf of the several Underwriters named in Schedule I to such agreement (collectively, the "Underwriters") with RBC Bearings Incorporated, a Delaware corporation (the "Company"), providing for a public offering of Series A Mandatory Convertible Preferred Stock, par value \$0.01 per share, with a liquidation preference of \$100 per share (the "Preferred Stock" and such offering, the "Offering"), of the Company (the "Preferred Stock Underwriting Agreement"), pursuant to a Registration Statement on Form S-3 (the "Registration Statement") to be filed with the Securities and Exchange Commission (the "SEC"). The Preferred Stock will be convertible into a variable number of shares of Common Stock in accordance with the terms thereof (the "Conversion Stock").

It is understood that the Company and the Underwriters also propose to enter into an underwriting agreement providing for a public offering of common stock, par value \$0.01 per share (the "Common Stock"), of the Company (the "Common Stock Underwriting Agreement") pursuant to the Registration Statement, substantially concurrently with the Offering.

In consideration of the agreement by the Underwriters to offer and sell the Preferred Stock, and of other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the undersigned agrees that, during the period beginning from the date of this Lock-Up Agreement and continuing to and including the date 90 days after the date set forth on the final prospectus used to sell the Preferred Stock (the "Lock-Up Period"), the undersigned will not (i) offer, sell, contract to sell, pledge, grant any option to purchase, lend or otherwise dispose of any shares of Common Stock, or any options or warrants to purchase any shares of Common Stock, or any securities convertible into, exchangeable for or that represent the right to receive shares of Common Stock, including, for the avoidance of doubt, the Preferred Stock and the Conversion Stock (such options, warrants or other securities, collectively, "Derivative Instruments"), including without limitation any such Common Stock or Derivative Instruments now owned or hereafter acquired by the undersigned or (ii) engage in any hedging or other transaction or arrangement (including, without limitation, any short sale or the purchase or sale of, or entry into, any put or call option, or combination thereof, forward, swap or any other derivative transaction or instrument that includes, relates to or derives any significant part of its value from the Common Stock) which is designed to or which reasonably could be expected to lead to or result in a sale or disposition (whether by the undersigned or someone other than the undersigned) of Common Stock, or transfer of any of the economic consequences of ownership, in whole or in part, directly or indirectly, of any shares of Common Stock of the Company or Derivative Instruments, whether any such transaction or arrangement (or instrument provided for thereunder) would be settled by delivery of Common Stock or other securities, in cash or otherwise (any such sale, loan, pledge or other disposition, or transfer of economic consequences, a "Transfer") or (iii) otherwise publicly announce any intention to engage in or cause any action or activity described in clause (i) above or transaction or arrangement described in clause (ii) above. The undersigned represents and warrants that the undersigned is not, and has not caused or directed any of its affiliates to be or become, currently a party to any agreement or arrangement that provides for, is designed to or which reasonably could be expected to lead to or result in any Transfer during the Lock-Up Period. For the avoidance of doubt, the undersigned agrees that the foregoing provisions shall be equally applicable to any issuer-directed or other Common Stock the undersigned may purchase in the Common Stock Offering.

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Notwithstanding the foregoing, the undersigned may transfer the undersigned's Common Stock or Derivative Instruments:

- (i) as a bona fide gift or gifts, or to a charitable organization or non-profit educational institution, provided that the donee or donees thereof agree to be bound in writing by the restrictions set forth herein;
  - (ii) to any members of the immediate family of the undersigned or to any trust, partnership, limited liability company or other entity for the direct or indirect benefit of the undersigned or the immediate family of the undersigned, provided that the transferee agrees to be bound in writing by the restrictions set forth herein, and provided further that any such transfer shall not involve a disposition for value;
  - (iii) by way of will, other testamentary document or intestate succession to the legal representatives, heirs, beneficiary or immediate family of the undersigned, provided that the transferee or transferees thereof agree to be bound in writing by the restrictions set forth herein;
  - (iv) by operation of law, pursuant to a court order, qualified domestic order or regulatory order, in connection with a divorce settlement or to comply with any regulations related to the undersigned's ownership of Common Stock or Derivative Instruments; provided, that in the case of any transfer or distribution pursuant to this clause, any filing under Section 16(a) of the Exchange Act reporting a reduction in beneficial ownership of shares of Common Stock shall state that such transfer is by operation of law, pursuant to a court order, qualified domestic order, regulatory order, in connection with a divorce settlement or to comply with any regulations related to the ownership of Common Stock, as applicable, unless such a statement would be prohibited by any applicable law, regulation or order of a court or regulatory authority;
  - (v) (i) to a corporation, partnership, limited liability company, association, joint stock company, trust, joint venture or other entity that is an affiliate (as defined in Rule 405 under the Securities Act of 1933, as amended (the "Securities Act")) of, or directly or indirectly, through one or more intermediaries, controls, is controlled by, is wholly owned by, or is under common control with the undersigned and/or members of the immediate family of the undersigned, or in each case, a direct or indirect parent of the undersigned, or (ii) to any investment fund or other entity controlled or managed by the undersigned, in each case provided that the transferee or transferees thereof agree to be bound in writing by the restrictions set forth herein; provided, that in the case of any transfer or distribution pursuant to this clause, any filing under Section 16(a) of the Exchange Act that the undersigned is required to file during the Lock-Up Period shall include a statement regarding the circumstances of the transfer or distribution.
  - (vi) to the Company in connection with the "net" or "cashless" exercise or settlement of any stock options, restricted stock units or other equity awards outstanding on or prior to the date hereof or on the date of the Underwriting Agreement; provided that the Common Stock or Derivative Instruments received upon such exercise shall be subject to the terms of this Lock-Up Agreement; and provided further that if the undersigned is required to file a report under Section 16(a) of the Exchange Act during the Lock-Up Period, the undersigned shall include a statement in any such report to the effect that (i) such transfer is in connection with the "net" or "cashless" exercise or settlement of any stock options, restricted stock units or other equity awards, as applicable and (ii) the transaction was only with the Company.
  - (vii) to the Company for the primary purposes of satisfying any tax or other governmental withholding obligation with respect to (A) Common Stock or Derivative Instruments issued upon the exercise of an option or warrant (or upon the exchange of another security or securities) or (B) the lapse of restrictions on Common Stock pursuant to a plan in effect on or prior to the date hereof or on the date of the Underwriting Agreement, or issued under an employee equity or benefit plan on or prior to the date hereof or on the date of the Underwriting Agreement;
  - (viii) to the Company upon exercise of the Company's right to repurchase or reacquire the undersigned's Common Stock or Derivative Instruments pursuant to employment agreements or employee equity or benefit plans in effect on or prior to the date hereof or on the date of the Underwriting Agreement, including in the event the undersigned ceases to provide services to the Company; provided that any filing under Section 16(a) of the Exchange Act relating to such transfers shall clearly indicate in the footnotes thereto that the Common Stock or Derivative Instruments were repurchased or reacquired by the Company;
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- (ix) to a nominee or custodian of a person or entity to whom a disposition or transfer would be permitted hereunder; provided, that the transferee agrees to be bound in writing by the restrictions set forth herein;
- (x) in transactions relating to shares of Common Stock acquired in open market transactions after the completion of the Offering or from the Underwriters in the Offering;
- (xi) pursuant to a bona fide third party tender offer, merger, consolidation or other similar transaction made to all holders of Common Stock involving a “change of control” (as defined below) of the Company; provided that in the event that the tender offer, merger, consolidation or other such transaction is not completed, the shares of Common Stock owned by the undersigned shall remain subject to the terms of this agreement. For purposes of this clause, “change of control” shall mean the consummation of any bona fide third party tender offer, merger, consolidation or other similar transaction the result of which is that any “person” (as defined in Section 13(d)(3) of the Exchange Act), or group of persons, other than the Company, becomes the beneficial owner (as defined in Rules 13d-3 and 13d-5 of the Exchange Act) of 50% of total voting power of the voting stock of the Company (or the surviving entity);
- (xii) to the Company or its affiliates upon death or disability of the undersigned;
- (xiii) pursuant to any transfer, sale or conversion of Preferred Stock in connection with, and as contemplated by, the Offering and the Preferred Stock Underwriting Agreement, including the sale of the Preferred Stock to the Underwriters pursuant to the Preferred Stock Underwriting Agreement and any conversion of Preferred Stock into Conversion Stock in accordance with its terms; provided that any such Preferred Stock or Conversion Stock received during the Lock-Up Period shall remain subject to the terms of this Lock-Up Agreement; and
- (xiv) with the prior written consent of the Representative on behalf of the Underwriters.

In addition, the aforementioned restrictions shall not apply to (x) the establishment or amendment of any contract, instruction or plan (a “Plan”) that satisfies all of the requirements of Rule 10b5-1 under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), provided that no sales of the undersigned’s shares of Common Stock shall be made pursuant to such a Plan prior to the expiration of this Lock-Up Period and to the extent a public announcement or filing under the Exchange Act, if any, is required of or voluntarily made by or on behalf of the undersigned, the Company or any other person regarding the establishment of such plan or transactions thereunder or contemplated thereby, such announcement or filing shall include a statement to the effect that no transfer of shares of Common Stock may be made under such plan during the Lock-Up Period; and (y) sales pursuant to any Plan not previously amended or otherwise revised during the Lock-Up Period that satisfies all of the requirements of Rule 10b5-1 under the Exchange Act where such Plan was in effect prior to the commencement of the Lock-Up Period.

For purposes of this Lock-Up Agreement, “immediate family” shall mean any relationship by blood, marriage or adoption, not more remote than first cousin. The undersigned now has, and, except as contemplated by clause (i) through (xiv) above, for the duration of this Lock-Up Agreement will have, good and marketable title to the undersigned’s shares of Common Stock, free and clear of all liens, encumbrances, and claims whatsoever, except those provided by the equity plan pursuant to which such shares were issued to the undersigned. The undersigned also agrees and consents to the entry of stop transfer instructions with the Company’s transfer agent and registrar against the transfer of the undersigned’s shares of Common Stock except in compliance with the foregoing restrictions.

The undersigned acknowledges and agrees that none of the Underwriters has made any recommendation or provided any investment or other advice to the undersigned with respect to this Lock-Up Agreement or the subject matter hereof, and the undersigned has consulted their own legal, accounting, financial, regulatory, tax and other advisors with respect to this Lock-Up Agreement and the subject matter hereof to the extent the undersigned has deemed appropriate.

The undersigned understands that the Company and the Underwriters are relying upon this Lock-Up Agreement in proceeding toward consummation of the Offering. The undersigned further understands that this Lock-Up Agreement is irrevocable and shall be binding upon the undersigned’s heirs, legal representatives, successors, and assigns.

This Lock-Up Agreement shall terminate automatically upon the earliest to occur, if applicable, of (a) the date the Company has determined not to proceed with the Offering and the Company has provided written notice, prior to the execution of the Underwriting Agreement, of such decision to the Underwriters, (b) the termination of the Underwriting Agreement (other than the provisions thereof which survive termination) prior to payment for and delivery of the Preferred Stock to be sold thereunder or (c) October 13, 2021 if, and only if, the Underwriting Agreement has not been executed by such date.

[Signature Page on following page]

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Very truly yours,

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Authorized Signature

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Title

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**RBC Bearings Incorporated**  
**3,000,000 of Common Stock, par**  
**value \$0.01 per share**

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**Underwriting Agreement**

**September 21, 2021**

Goldman Sachs & Co. LLC  
200 West Street  
New York, New York 10282

As the representative (the "Representative") of the several Underwriters  
named in Schedule I hereto

Ladies and Gentlemen:

RBC Bearings Incorporated, a Delaware corporation (the "Company"), proposes, subject to the terms and conditions stated in this agreement (this "Agreement"), to issue and sell to the several Underwriters named in Schedule I hereto (the "Underwriters") an aggregate of 3,000,000 shares (the "Firm Securities") and, at the election of the Underwriters, up to 450,000 additional shares (the "Optional Securities") of common stock, par value \$0.01 per share, of the Company (the "Common Stock") (the Firm Securities and the Optional Securities that the Underwriters elect to purchase pursuant to Section 2 hereof being collectively called the "Securities").

Substantially concurrently with the offering of the Securities contemplated hereby, the Company is publicly offering shares of its 5.00% Series A Mandatory Convertible Preferred Stock, par value \$0.01 per share (the "Mandatory Convertible Preferred Stock") with a liquidation preference of \$100 per share (the "Mandatory Convertible Preferred Stock Offering") pursuant to a separate underwriting agreement (the "Mandatory Convertible Preferred Stock Underwriting Agreement"). In addition, the Company's wholly owned subsidiary, Roller Bearing Company of America, Inc. ("RBCA"), intends to offer \$500 million aggregate principal amount of its Senior Notes (the "Senior Notes" and the offering thereof, the "Senior Notes Offering" and, together with the Mandatory Convertible Preferred Stock Offering, the "Other Offerings") pursuant to a purchase agreement (the "Purchase Agreement"). The offering of the Securities is not contingent upon the completion of either of the Other Offerings, and neither of the Other Offerings is contingent on the completion of the offering of the Securities. The Mandatory Convertible Preferred Stock will be convertible into Common Stock. The Common Stock of the Company into which the Mandatory Convertible Preferred Stock is convertible is hereinafter referred to as the "Conversion Securities".

The Company has also entered into Amendment No. 2 (the "Amendment"), dated as of September 21, 2021, to the Credit Agreement, dated as of April 24, 2015, by and among, *inter alios*, RBCA, the Company, Wells Fargo Bank, National Association (the "Administrative Agent"), as administrative agent and the lenders party thereto, as amended by Amendment No. 1 thereto, dated as of January 31, 2019, by and among RBCA, the Company, the Administrative Agent and the other credit parties and lenders party thereto (the "Existing Credit Agreement"). The Company also intends to enter into (i) a 5-year \$500 million revolving credit facility and (ii) a 5-year \$1,300 million senior secured term loan facility (collectively, the "Senior Secured Credit Facilities," and together with the offering and sale of the Securities hereunder, the Other Offerings and the Amendment, the "Financing Transactions") pursuant to a Credit Agreement, by and among, among other parties, the Company, as holdings, RBCA, as the borrower, Wells Fargo Bank, National Association, as the administrative agent, and the lenders party thereto from time to time.

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The Company is entering into the Financing Transactions in connection with the pending acquisition (the “Acquisition”) by the Company of the mechanical power transmission division of ABB Asea Brown Boveri Ltd (“ABB Asea”) operated under the Dodge brand (“Dodge”), pursuant to that certain Stock and Asset Purchase Agreement, dated as of July 24, 2021 (the “Asset Purchase Agreement”). A portion of the net proceeds from the Financing Transactions will be used to finance the Acquisition, to pay acquisition-related fees and expenses, and for general corporate purposes.

1. The Company represents and warrants to, and agrees with, each of the Underwriters that:

(a) An “automatic shelf registration statement” as defined under Rule 405 under the Securities Act of 1933, as amended (the “Act”), on Form S-3 (File No. 333- 259669) in respect of the Securities has been filed with the Securities and Exchange Commission (the “Commission”) not earlier than three years prior to the date hereof; such registration statement, and any post-effective amendment thereto, became effective upon filing; and no stop order suspending the effectiveness of such registration statement or any part thereof has been issued and no proceeding for that purpose has been initiated or, to the Company’s knowledge, threatened by the Commission, and no notice of objection of the Commission to the use of such registration statement or any post-effective amendment thereto pursuant to Rule 401(g)(2) under the Act has been received by the Company ((i) the base prospectus filed as part of such registration statement, in the form in which it has most recently been filed with the Commission on or prior to the date of this Agreement, is hereinafter called the “Basic Prospectus”; (ii) any preliminary prospectus (including any preliminary prospectus supplement) relating to the Securities filed with the Commission pursuant to Rule 424(b) under the Act is hereinafter called a “Preliminary Prospectus”; (iii) the various parts of such registration statement, including all exhibits thereto and including any prospectus supplement relating to the Securities that is filed with the Commission and deemed by virtue of Rule 430B to be part of such registration statement, each as amended at the time such part of the registration statement became effective, are hereinafter collectively called the “Registration Statement”; (iv) the Basic Prospectus, as amended and supplemented immediately prior to the Applicable Time (as defined in Section 1(c) hereof), is hereinafter called the “Pricing Prospectus”; (v) the form of the final prospectus relating to the Securities filed with the Commission pursuant to Rule 424(b) under the Act in accordance with Section 5(a) hereof is hereinafter called the “Prospectus”; (vi) any reference herein to the Basic Prospectus, the Pricing Prospectus, any Preliminary Prospectus or the Prospectus shall be deemed to refer to and include the documents incorporated by reference therein pursuant to Item 12 of Form S-3 under the Act, as of the date of such prospectus; (vii) any reference to any amendment or supplement to the Basic Prospectus, any Preliminary Prospectus or the Prospectus shall be deemed to refer to and include any post-effective amendment to the Registration Statement, any prospectus supplement relating to the Securities filed with the Commission pursuant to Rule 424(b) under the Act and any documents filed under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), and incorporated therein, in each case after the date of the Basic Prospectus, such Preliminary Prospectus, or the Prospectus, as the case may be; (viii) any reference to any amendment to the Registration Statement shall be deemed to refer to and include any annual report of the Company filed pursuant to Section 13(a) or 15(d) of the Exchange Act after the effective date of the Registration Statement that is incorporated by reference in the Registration Statement; and (ix) any “issuer free writing prospectus” as defined in Rule 433 under the Act relating to the Securities is hereinafter called an “Issuer Free Writing Prospectus”);

(b) (i) No order preventing or suspending the use of any Preliminary Prospectus or any Issuer Free Writing Prospectus has been issued by the Commission, and (ii) each Preliminary Prospectus, at the time of filing thereof, conformed in all material respects to the requirements of the Act and the rules and regulations of the Commission thereunder, and did not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided, however, that this representation and warranty shall not apply to any statements or omissions made in reliance upon and in conformity with the Underwriter Information (as defined in Section 9(b) of this Agreement);

(c) For the purposes of this Agreement, the “Applicable Time” is 6:00 p.m. (Eastern time) on the date of this Agreement. The Pricing Prospectus, as supplemented by the information listed on Schedule II(b) hereto, taken together (collectively, the “Pricing Disclosure Package”), as of the Applicable Time, did not, and as of each Time of Delivery (as defined in Section 4(a) of this Agreement) will not, include any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; and each Issuer Free Writing Prospectus does not conflict with the information contained in the Registration Statement, the Pricing Prospectus or the Prospectus, and each Issuer Free Writing Prospectus, as supplemented by and taken together with the Pricing Disclosure Package, as of the Applicable Time, did not, and as of each Time of Delivery will not, include any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided, however, that this representation and warranty shall not apply to statements or omissions made in reliance upon and in conformity with the Underwriter Information;

(d) The documents incorporated by reference in the Pricing Prospectus and the Prospectus, when they became effective or were filed with the Commission, as the case may be, conformed in all material respects to the requirements of the Act or the Exchange Act, as applicable, and the rules and regulations of the Commission thereunder, and none of such documents contained an untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; and any further documents so filed and incorporated by reference in the Pricing Prospectus and the Prospectus or any further amendment or supplement thereto, when such documents become effective or are filed with the Commission, as the case may be, will conform in all material respects to the applicable requirements of the Act or the Exchange Act, as applicable, and the rules and regulations of the Commission thereunder and will not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided, however, that this representation and warranty shall not apply to any statements or omissions made in reliance upon and in conformity with the Underwriter Information; and no such documents were filed with the Commission since the Commission’s close of business on the business day immediately prior to the date of this Agreement and prior to the execution of this Agreement, except as set forth on Schedule II(b) hereto;

(e) The Registration Statement conforms, and the Prospectus and any further amendments or supplements to the Registration Statement and the Prospectus will conform, in all material respects to the applicable requirements of the Act and the rules and regulations of the Commission thereunder and do not and will not, as of the applicable effective date as to each part of the Registration Statement, as of the applicable filing date as to the Prospectus and any amendment or supplement thereto, and as of each Time of Delivery will not, in each case as then amended or supplemented, contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided, however, that this representation and warranty shall not apply to any statements or omissions made in reliance upon and in conformity with the Underwriter Information;

(f) Neither the Company nor any of its Subsidiaries (as defined below) has, since the date of the latest audited financial statements included or incorporated by reference in the Pricing Prospectus, (i) sustained any material loss or interference with its business from fire, explosion, flood or other calamity, whether or not covered by insurance, or from any court or governmental action, order or decree, or (ii) entered into any transaction or agreement (whether or not in the ordinary course of business) that is material to the Company and its subsidiaries taken as a whole or incurred any liability or obligation, direct or contingent, that is material to the Company and its subsidiaries taken as a whole, in each case otherwise than as set forth or contemplated in the Pricing Prospectus or any documents incorporated by reference therein; and, since the respective dates as of which information is given in the Registration Statement and the Pricing Prospectus, there has not been (x) any change in the capital stock (other than as a result of (i) the exercise, if any, of stock options or the award, vesting or forfeiture, if any, of stock options, restricted stock or other compensatory equity-based awards in the ordinary course of business pursuant to the Company's equity plans that are described in the Registration Statement, the Pricing Prospectus or the Prospectus or (ii) the issuance, if any, of stock upon conversion of Company securities as described in the Pricing Prospectus and the Prospectus) or long-term debt of the Company or any of its Subsidiaries, or (y) any Material Adverse Effect (as defined below), other than in connection with (x) any voluntary prepayments of long-term debt of the Company or any of its Subsidiaries, (y) the Financing Transactions, including the issuance of any Senior Notes, Mandatory Convertible Preferred Stock and Conversion Securities or (z), as described in the Registration Statement, the Pricing Prospectus or the Prospectus; as used in this Agreement, "Material Adverse Effect" shall mean any material adverse change or effect, or any development involving a prospective material adverse change or effect, in or affecting the business, properties, management, financial position, stockholders' equity or results of operations of the Company and its Subsidiaries, taken as a whole, except as set forth or contemplated in the Pricing Prospectus;

(g) Except as would not, singly or in the aggregate, reasonably be expected to result in a Material Adverse Effect, the Company and its Subsidiaries have good and marketable title in fee simple to all real property and good and marketable title to all material personal property (other than intellectual property, which is covered in Section 1(cc) below) owned by them, in each case free and clear of all liens, encumbrances and defects except (i) such as are described in the Pricing Prospectus, (ii) such that secure Existing Credit Agreement, (iii) such that secure the credit facility agreements, each dated as of August 15, 2019, by and between Schaublin SA and Credit Suisse (Switzerland) Ltd. (the "Schaublin Credit Agreements"), (iv) such that will secure the Senior Secured Credit Facilities (together with the Existing Credit Agreement and the Schaublin Credit Agreements, the "Specified Credit Facilities"), or (v) such as do not materially affect the value of such property and do not materially interfere with the use made and proposed to be made of such property by the Company and its Subsidiaries; and any real property and buildings held under lease by the Company and its Subsidiaries are held by them under valid, subsisting and enforceable leases with such exceptions as are not material and do not materially interfere with the use made and proposed to be made of such property and buildings by the Company and its Subsidiaries;

(h) Each of the Company and each of the entities listed on Schedule III hereto (the "Subsidiaries" and each, a "Subsidiary") has been (i) duly incorporated, formed or organized, as applicable, and is validly existing and in good standing under the laws of its jurisdiction of incorporation, formation or organization (to the extent the concept of good standing is applicable in such jurisdiction), with power and authority (corporate and other) to own its properties and conduct its business as described in the Pricing Prospectus, and (ii) duly qualified as a foreign corporation for the transaction of business and is in good standing under the laws of each other jurisdiction in which it owns or leases properties or conducts any business so as to require such qualification, except, in the case of this clause (ii), where the failure to be so qualified or in good standing would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect;

(i) (i) The Company has an authorized capitalization as set forth in the Pricing Prospectus and all of the issued shares of capital stock of the Company have been duly and validly authorized and issued and are fully paid and non-assessable and conform in all material respects to the description of the capital stock contained in the Pricing Disclosure Package and the Prospectus; (ii) all of the issued shares of capital stock of each Subsidiary of the Company that are owned directly or indirectly by the Company have been duly and validly authorized and issued, are fully paid and non-assessable and (except, in the case of any foreign Subsidiary, for directors' qualifying shares) are owned directly or indirectly by the Company, free and clear of all liens, encumbrances, equities or claims, except for such liens or encumbrances relating to the Specified Credit Facilities or as described in the Pricing Prospectus and the Prospectus; (iii) the Securities to be issued and sold by the Company to the Underwriters hereunder have been duly and validly authorized and, when issued and delivered against payment therefor as provided herein, will be duly and validly issued and fully paid and non-assessable and will conform in all material respects to the description of the Securities contained in the Pricing Disclosure Package and the Prospectus; and (iv) the issuance of the Securities is not subject to any preemptive or similar rights;

(j) The issue and sale of the Securities and the compliance by the Company with this Agreement and the consummation of the transactions contemplated in this Agreement and the Pricing Prospectus will not conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default under, (i) any indenture, mortgage, deed of trust, loan agreement, lease or other agreement or instrument to which the Company or any of its Subsidiaries is a party or by which the Company or any of its Subsidiaries is bound or to which any of the property or assets of the Company or any of its Subsidiaries is subject, (ii) the certificate of incorporation or by-laws (or other applicable organizational document) of the Company or any of its Subsidiaries, or (iii) any statute or any judgment, order, rule or regulation of any court or governmental agency or body having jurisdiction over the Company or any of its Subsidiaries or any of their properties, except, in the case of clauses (i) and (iii) for such conflicts, defaults, breaches, or violations that would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect; and no consent, approval, authorization, order, registration or qualification of or with any such court or governmental agency or body is required for the issue and sale of the Securities or the consummation by the Company of the transactions contemplated by this Agreement, except such as have been obtained under the Act, and for the approval by the Financial Industry Regulatory Authority ("FINRA") of the underwriting terms and arrangements and such consents, approvals, authorizations, orders, registrations or qualifications as may be required under state securities or Blue Sky laws in connection with the purchase and distribution of the Securities by the Underwriters, and except where the failure to obtain any such consent, approval, authorization, order, registration or qualification would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect;

(k) Neither the Company nor any of its Subsidiaries is (i) in violation of its certificate of incorporation or by-laws (or other applicable organizational document), or (ii) in default in the performance or observance of any obligation, agreement, covenant or condition contained in any indenture, mortgage, deed of trust, loan agreement, lease or other agreement or instrument to which it is a party or by which it or any of its properties may be bound, except, in the case of the foregoing clause (ii), for such violations or defaults as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect;

(l) The statements set forth in the Pricing Prospectus and the Prospectus under the caption “Description of Capital Stock,” insofar as they purport to constitute a summary of the terms of the Securities and under the caption “Material U.S. Federal Income Tax Considerations”, insofar as they purport to describe the provisions of the laws and documents referred to therein, are accurate and complete in all material respects;

(m) Other than as set forth in the Pricing Prospectus, there are no legal, governmental or regulatory proceedings (“Actions”) pending to which the Company or any of its Subsidiaries is a party or of which any property of the Company or any of its Subsidiaries is the subject which, if determined adversely to the Company or any of its Subsidiaries, would individually or in the aggregate have a Material Adverse Effect, and, to the Company’s knowledge, no such proceedings are threatened or contemplated by governmental authorities or others;

(n) The Company is not and, after giving effect to the sale of the Securities and the application of the proceeds thereof, will not be an “investment company”, as such term is defined in the Investment Company Act of 1940, as amended;

(o) Except as described in the Registration Statement or except as would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, (i) the Company and each of its Subsidiaries is currently in compliance with, and has not incurred liability under, any applicable federal, state, local or foreign laws, rules, regulations, permits, ordinances, orders, judgments, or decrees concerning pollution, protection or preservation of the environment (including, without limitation, ambient air, surface water, groundwater, land surface or subsurface strata), wildlife, or natural resources, including, without limitation, as relating to the release or threatened release of chemicals, pollutants, contaminants, wastes, toxic substances, hazardous substances, petroleum or petroleum products, asbestos-containing materials, polychlorinated biphenyl, per- and polyfluoroalkyl substances or mold (collectively, “Hazardous Materials”) or to the manufacture, processing, distribution, use, treatment, storage, disposal, release, presence, transport or handling of Hazardous Materials (collectively, “Environmental Laws”) and (ii) there are no pending or, to the Company’s knowledge, threatened administrative, regulatory or judicial actions, suits, demands, demand letters, claims, liens, notices of noncompliance or violation, or proceedings against the Company or any of its Subsidiaries under Environmental Laws or relating to Hazardous Materials;

(p) Each of the Company and its subsidiaries have complied with the minimum funding standards of Section 412 of the Internal Revenue Code of 1986, as amended (the “Code”) or Section 302 and Title IV of the United States Employee Retirement Income Security Act of 1974 (“ERISA”) and the regulations and published interpretations thereunder with respect to each “defined benefit plan” (as defined in Section 3(35) of ERISA) with respect to which the Company or any of its subsidiaries has any liability (a “Plan”). Except as would not reasonably be expected to have a Material Adverse Effect, (A) each Plan is in compliance with its terms and the requirements of applicable statutes, orders, rules and regulations, including, without limitation, ERISA, the Code and such regulations and published interpretations thereto; (B) no prohibited transaction within the meaning of Section 406 of ERISA or Section 4975 of the Code has occurred with respect to any Plan, excluding transactions effected pursuant to a statutory or administrative exemption; (C) none of the Company, any of its subsidiaries or any member of the “Controlled Group” (defined as any entity, whether or not incorporated, that is under common control with the Company within the meaning of Section 4001(a)(14) of ERISA or any entity that would be regarded as a single employer with the Company under Section 414(b), (c), (m) or (o) of the Code) has incurred, nor reasonably expects to incur, any material liability under Title IV of ERISA; (D) no “reportable event” (within the meaning of Section 4043(c) of ERISA, other than those events as to which notice is waived) has occurred or is reasonably expected to occur with respect to any Plan; (E) each Plan that is intended to be qualified under Section 401(a) of the Code is the subject of a favorable determination or opinion letter, and nothing has occurred, whether by action or by failure to act, which would adversely impact such qualification; (F) there is no pending audit or investigation by the U.S. Internal Revenue Service, the U.S. Department of Labor, the Pension Benefit Guaranty Corporation or any other governmental entity with respect to any Plan; and (G) there has not occurred nor is there reasonably likely to occur a material increase in the aggregate amount of contributions required to be made to all Plans by the Company or any of its subsidiaries in the current fiscal year of the Company and such subsidiaries compared to the amount of such contributions made in the Company’s and such subsidiaries’ most recently completed fiscal year;

(q) Except as would not reasonably be expected to have a Material Adverse Effect, no labor strike, lockout or similar labor dispute with employees or officers of the Company or any of its subsidiaries exists or, to the Company's knowledge, is threatened. Except as set forth in the Company's Annual Report on Form 10-K for the fiscal year ended April 3, 2021, neither the Company nor any of its subsidiaries is a party to any collective bargaining agreement with regards to its U.S. employees. Except as would not reasonably be expected to have a Material Adverse Effect, the Company and its subsidiaries are in material compliance with all applicable laws and regulations respecting labor and employment matters, including, without limitation, fair employment practices, harassment, discrimination, pay equity, the classification of independent contractors and employees, workplace safety and health, work authorization and immigration, unemployment compensation, workers' compensation, affirmative action, terms and conditions of employment, employee leave and wages and hours, including payment of minimum wages and overtime;

(r) (i) (A) At the time of filing the Registration Statement, (B) at the time of the most recent amendment thereto for the purposes of complying with Section 10(a)(3) of the Act (whether such amendment was by post-effective amendment, incorporated report filed pursuant to Section 13 or 15(d) of the Exchange Act or form of prospectus), and (C) at the time the Company or any person acting on its behalf (within the meaning, for this clause only, of Rule 163(c) under the Act) made any offer relating to the Securities in reliance on the exemption of Rule 163 under the Act, the Company was a "well-known seasoned issuer" as defined in Rule 405 under the Act; and (ii) at the time of filing of the Registration Statement and any post-effective amendment thereto and at the earliest time thereafter that the Company or any offering participant made a bona fide offer (within the meaning of Rule 164(h)(2) under the Act) of the Securities, the Company was not and is not an "ineligible issuer," as defined in Rule 405 under the Act;

(s) Ernst & Young LLP, who has certified certain financial statements of the Company and its subsidiaries in existence as of the dates thereof, and have audited the Company's internal control over financial reporting and management's assessment thereof, is an independent registered public accounting firm as required by the Securities Act and the rules and regulations of the Commission thereunder;

(t) KPMG AG, who has audited certain financial statements of Dodge, is an independent auditor with respect to Dodge in accordance with rule 101 of the American Institute of Certified Public Accountants Code of Professional Conduct;

(u) The Company maintains a system of internal control over financial reporting (as such term is defined in Rule 13a-15(f) under the Exchange Act) that (i) complies with the requirements of the Exchange Act, (ii) has been designed by the Company's principal executive officer and principal financial officer, or under their supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with U.S. generally accepted accounting principles ("GAAP"), and (iii) is sufficient to provide reasonable assurance that (A) transactions are executed in accordance with management's general or specific authorization, (B) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain accountability for assets, (C) access to assets is permitted only in accordance with management's general or specific authorization, and (D) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences; and the Company's internal control over financial reporting is effective and the Company is not aware of any material weaknesses in its internal control over financial reporting;

(v) Since the date of the latest audited financial statements included or incorporated by reference in the Pricing Prospectus, there has been no change in the Company's internal control over financial reporting that has materially adversely affected, or is reasonably likely to materially adversely affect, the Company's internal control over financial reporting;

(w) The Company maintains disclosure controls and procedures (as such term is defined in Rule 13a-15(e) under the Exchange Act) that comply with the requirements of the Exchange Act; such disclosure controls and procedures have been designed to ensure that material information relating to the Company and its Subsidiaries is made known to the Company's principal executive officer and principal financial officer by others within those entities; and such disclosure controls and procedures are effective;

(x) This Agreement has been duly authorized, executed and delivered by the Company;

(y) (i) Neither the Company nor any of its Subsidiaries, nor any director or officer of the Company or any of its subsidiaries, nor, to the knowledge of the Company, any employee, agent, affiliate or other person associated with or acting on behalf of the Company or any of its Subsidiaries has (A) made, offered, promised or authorized any corporate funds for any unlawful contribution, gift, entertainment or other unlawful expense (or taken any act in furtherance thereof), (B) made, offered, promised or authorized any direct or indirect unlawful payment or other thing of value to any foreign or domestic government official or employee, or (C) violated or is in violation of any provision of the Foreign Corrupt Practices Act of 1977, as amended, or the rules and regulations thereunder, the Bribery Act 2010 of the United Kingdom or any other applicable anti-corruption, anti-bribery or related law, statute or regulation (collectively, "Anti-Corruption Laws"); (ii) the Company and its Subsidiaries have conducted their businesses in compliance with Anti-Corruption Laws and have instituted and maintained and will continue to maintain policies and procedures reasonably designed to promote and achieve compliance with such laws and with the representations and warranties contained herein; and (iii) neither the Company nor any of its Subsidiaries will use, directly or indirectly, the proceeds of the offering in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any person in violation of Anti-Corruption Laws;

(z) The operations of the Company and its Subsidiaries are and have been conducted at all times in compliance with the requirements of applicable anti-money laundering laws, including, but not limited to, the Bank Secrecy Act of 1970, as amended by the USA PATRIOT ACT of 2001, and the applicable rules and regulations promulgated thereunder, and the anti-money laundering laws of the various jurisdictions in which the Company and its Subsidiaries conduct business, the rules and regulations thereunder and any related or similar rules, regulation or guidelines issued, administered or enforced by any governmental agency having jurisdiction over the Company or any of its Subsidiaries (collectively, the "Money Laundering Laws"), and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any of its Subsidiaries with respect to the Money Laundering Laws is pending or, to the knowledge of the Company, threatened;

(aa) (i) Neither the Company nor any of its Subsidiaries, nor any of their respective directors or officers, nor, to the knowledge of the Company, any employee, agent, affiliate or other person associated with or acting on behalf of the Company or any of its Subsidiaries is (A) currently the subject or the target of any sanctions administered or enforced by the U.S. Government, including, without limitation, the Office of Foreign Assets Control of the U.S. Department of the Treasury, or the U.S. Department of State and including, without limitation, the designation as a “specially designated national” or “blocked person,” the European Union, Her Majesty’s Treasury or the United Nations Security Council (collectively, “Sanctions”), or (B) located, organized, or resident in a country or territory that is the subject of Sanctions (currently, Cuba, Iran, North Korea, Syria, and the Crimea region of Ukraine) (a “Sanctioned Jurisdiction”); (ii) the Company will not directly or indirectly use the proceeds of the offering of the Securities hereunder, or lend, contribute or otherwise make available such proceeds to any Subsidiary, joint venture partner or other person or entity, (A) to fund or facilitate any activities of or business with any person, or in any country or territory, that, at the time of such funding, is the subject or the target of Sanctions, or (B) in any other manner that will result in any person (including any person participating in the offering of the Securities, whether as underwriter, advisor, investor or otherwise) violating or becoming the subject or the target of Sanctions; (iii) neither the Company nor any of its Subsidiaries is engaged in, or has, at any time in the past five years, knowingly engaged in, any dealings or transactions with any person that was or is, as applicable, at the time of such dealing or transaction, the subject of Sanctions or with any Sanctioned Jurisdiction; and (iv) the Company and its Subsidiaries have instituted, and maintain, policies and procedures reasonably designed to promote and achieve continued compliance with Sanctions;

(bb) The historical financial statements included or incorporated by reference in the Registration Statement, the Pricing Prospectus and the Prospectus, together with the related schedules and notes, present fairly in all material respects the consolidated financial position of the Company and its consolidated subsidiaries (in existence as of the dates thereof) at the dates indicated and the statement of operations, stockholders’ equity and cash flows of the Company and its consolidated subsidiaries (in existence as of the dates thereof) for the periods specified; and said financial statements have been prepared in conformity with GAAP applied on a consistent basis throughout the periods involved. The summary financial information included or incorporated by reference in the Registration Statement, the Pricing Prospectus and the Prospectus present fairly in all material respects the information shown therein and have been compiled on a basis consistent with that of the audited financial statements included therein. The pro forma financial information included or incorporated by reference in the Registration Statement, the Pricing Prospectus and the Prospectus, together with the related notes, has been prepared in accordance with the Commission’s rules and guidelines with respect to pro forma financial statements and the assumptions used in preparation thereof are reasonable. All disclosures contained in the Registration Statement, the Pricing Prospectus and the Prospectus regarding “non-GAAP financial measures” (as such term is defined by the rules and regulations of the Commission) comply in all material respects with Regulation G of the Exchange Act and Item 10 of Regulation S-K of the Act, to the extent applicable;

(cc) Except as would not, individually or in the aggregate, have a Material Adverse Effect, the Company and each of its Subsidiaries (i) own, or otherwise have the right to use all patents, trademarks, service marks, trade names, domain names, copyrights, trade secrets, and other intellectual property (collectively, “Intellectual Property”) necessary for the conduct of their respective businesses as currently conducted by them in the manner described in the Registration Statement, the Pricing Prospectus and the Prospectus, (ii) do not, through the conduct of their respective businesses as currently conducted, infringe, misappropriate, dilute or otherwise violate any Intellectual Property rights of others, and (iii) in the past three (3) years, have not received any written notice of any claim of infringement, misappropriation, dilution or other violation of any Intellectual Property rights of any third party. There are no pending or threatened in writing actions, suits, proceedings or claims by any third party challenging the validity, enforceability, registration, ownership, scope or use of any material Intellectual Property owned by the Company or any of its Subsidiaries;



(dd) The Company and its Subsidiaries own or have a valid right to access and use all of their information technology assets and equipment, computers, systems, networks, hardware, software, websites, applications, and databases (collectively, "IT Systems"), except as would not, individually or in the aggregate, have a Material Adverse Effect. The IT Systems (i) are adequate for, and operate and perform in all material respects as required in connection with the operation of the business of the Company and its Subsidiaries as currently conducted, (ii) except as set forth in the Company's Annual Report on Form 10-K for the fiscal year ended April 3, 2021 or the Company's other filings with the SEC, have not materially malfunctioned or failed in the past three (3) years, and (iii) to the Company's knowledge, are free and clear of all material bugs, errors, defects, Trojan horses, time bombs, back doors, drop dead devices, malware and other corruptants, including software or hardware components that are designed to interrupt use of, permit unauthorized access to or disable, damage or erase, the IT Systems and data, except for any of the foregoing that would not, individually or in the aggregate, have a Material Adverse Effect. The Company and its Subsidiaries have implemented, and maintain commercially reasonable controls, policies, procedures, and safeguards consistent with applicable regulatory standards and customary industry practices (including in relation to any third parties with which the Company and its Subsidiaries share data) to maintain and protect the confidentiality of their material confidential information and the operation, integrity, and security of all IT Systems and data (including all "personal information" or "personally identifiable information" or similar terms under one or more applicable laws ("Personal Data")) used or gathered in connection with their businesses. In the past three (3) years, there have been no breaches, violations, outages or unauthorized uses of or accesses to the IT Systems or loss, theft, or accidental, unlawful or unauthorized access, use, loss, or disclosure of Personal Data, except for those that have been remedied ("Security Incidents"). During the past three (3) years the Company and its Subsidiaries, (x) have complied, and have required third parties with which the Company and its Subsidiaries share data to comply, in all material respects and are presently in compliance in all material respects with, to the extent relating to the privacy and security of IT Systems and Personal Data (A) all applicable laws or statutes and all judgments, orders, rules and regulations of any court or arbitrator or governmental or regulatory authority, and (B) external policies, contractual obligations, and industry standards applicable to the Company and its Subsidiaries (collectively, the "Data Security Obligations"), and (y) have not in relation to any Security Incidents and/or Data Security Obligations: (i) been required to notify customers, consumers, employees, governmental authority, or any other Person (other than notifications to governmental authorities that were made in relation to the incident described in Part I, Item 1A, "Risk Factors - Risks associated with utilizing information technology systems could adversely affect our operations" of the Company's Annual Report on Form 10-K for the fiscal year ended April 3, 2021) of any Security Incidents; (ii) received any notice, request, claim, complaint, correspondence or other communication regarding non-compliance; or (iii) been made aware of any pending or threatened inquiry, investigation, action, suit, investigation or proceeding by or before any court or governmental agency, authority or body against the Company or any of its Subsidiaries. The Company and its Subsidiaries have implemented and maintained commercially reasonable backup and disaster recovery technology consistent in all material respects with applicable regulatory standards and customary industry practices;

(ee) No forward-looking statement (within the meaning of Section 27A of the Act and Section 21E of the Exchange Act) included or incorporated by reference in any of the Registration Statement, the Pricing Prospectus or the Prospectus has been disclosed other than in good faith;

(ff) Neither the Company nor any of its affiliates has taken or will take, directly or indirectly, any action designed to or that would reasonably be expected to cause or result in the stabilization or manipulation of the price of any security of the Company or any of its Subsidiaries in connection with the offering of the Securities;

(gg) The Company and each of its Subsidiaries have such permits, licenses, approvals, consents, franchises, certificates of need and other approvals or authorizations of governmental or regulatory authorities (“Permits”) as are necessary under applicable law to own their respective properties and conduct their respective businesses in the manner described in the Registration Statement, the Pricing Prospectus and the Prospectus, except for any of the foregoing that would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Neither the Company nor any of its Subsidiaries has received notice of any proceedings related to the revocation or modification of any such Permits that, if the subject of an unfavorable decision, ruling or finding, would, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect; and

(hh) The Company and its subsidiaries, taken as a whole, are insured against such losses and risks and in such amounts as are prudent and customary in the businesses in which they are engaged and as required by law.

For the avoidance of doubt, the representations and warranties herein with respect to the Company’s subsidiaries shall be in respect of the Company’s subsidiaries as in existence as of the date hereof, unless otherwise specified.

2. Subject to the terms and conditions herein set forth, (a) the Company agrees to issue and sell to each of the Underwriters, and each of the Underwriters agrees, severally and not jointly, to purchase from the Company, at a purchase price per share of \$175.75, the number of Firm Securities set forth opposite the name of such Underwriter in Schedule I hereto and (b) in the event and to the extent that the Underwriters shall exercise the election to purchase Optional Securities as provided below, the Company agrees to issue and sell to each of the Underwriters, and each of the Underwriters agrees, severally and not jointly, to purchase from the Company, at the purchase price per share set forth in clause (a) of this Section 2 (provided that the purchase price per Optional Security shall be reduced by an amount per share equal to any dividends or distributions declared by the Company and payable on the Firm Shares but not payable on the Optional Securities), that portion of the number of Optional Securities as to which such election shall have been exercised (to be adjusted by you so as to eliminate fractional shares) determined by multiplying such number of Optional Securities by a fraction, the numerator of which is the maximum number of Optional Securities which such Underwriter is entitled to purchase as set forth opposite the name of such Underwriter in Schedule I hereto and the denominator of which is the maximum number of Optional Securities that all of the Underwriters are entitled to purchase hereunder.

The Company hereby grants to the Underwriters the right to purchase at their election up to 450,000 Optional Securities, at the purchase price per share set forth in the paragraph above, for the sole purpose of covering sales of shares in excess of the number of Firm Securities, provided that the purchase price per Optional Security shall be reduced by an amount per share equal to any dividends or distributions declared by the Company and payable on the Firm Shares but not payable on the Optional Securities. Any such election to purchase Optional Securities may be exercised only by written notice from you to the Company, given within a period of 30 calendar days after the date of this Agreement, setting forth the aggregate number of Optional Securities to be purchased and the date on which such Optional Securities are to be delivered, as determined by you but in no event earlier than the First Time of Delivery (as defined in Section 4 hereof) or, unless you and the Company otherwise agree in writing, earlier than two or later than ten business days after the date of such notice.

3. Upon the authorization by you of the release of the Firm Securities, the several Underwriters propose to offer the Firm Securities for sale upon the terms and conditions set forth in the Pricing Disclosure Package and the Prospectus.

4. (a) The Securities to be purchased by each Underwriter hereunder, in definitive or book-entry form, and in such authorized denominations and registered in such names as the Representative may request upon at least forty-eight hours' prior written notice to the Company shall be delivered by or on behalf of the Company to the Representative, through the facilities of the Depository Trust Company ("DTC"), for the account of such Underwriter, against payment by or on behalf of such Underwriter of the purchase price therefor by wire transfer of Federal (same-day) funds to the account specified by the Company to the Representative at least forty-eight hours in advance. The Company will cause the certificates, if any, representing the Securities to be made available for checking and packaging at least twenty-four hours prior to the Time of Delivery (as defined below) with respect thereto at the office of DTC or its designated custodian. The time and date of such delivery and payment shall be, with respect to the Firm Securities, 9:30 a.m., New York City time, on September 24, 2021, or such other time and date as the Representative and the Company may agree upon in writing, and, with respect to the Optional Securities, 9:30 a.m., New York time, on the date specified by the Representative in the written notice given by the Representative of the Underwriters' election to purchase such Optional Securities, or such other time and date as the Representative and the Company may agree upon in writing. Such time and date for delivery of the Firm Securities is herein called the "First Time of Delivery", such time and date for delivery of the Optional Securities, if not the First Time of Delivery, is herein called the "Second Time of Delivery", and each such time and date for delivery is herein called a "Time of Delivery".

(b) The documents to be delivered at each Time of Delivery by or on behalf of the parties hereto pursuant to Section 8 hereof, including the cross-receipt for the Securities and any additional documents requested by the Underwriters pursuant to Section 8(k) hereof, will be delivered via electronic mail at such Time of Delivery. Prior to 9:00 a.m., New York City time, on the New York Business Day next preceding such Time of Delivery, the final drafts of the documents to be delivered pursuant to the preceding sentence will be available via electronic mail for review by the parties hereto. For the purposes of this Section 4, "New York Business Day" shall mean each Monday, Tuesday, Wednesday, Thursday and Friday which is not a day on which banking institutions in New York City are generally authorized or obligated by law or executive order to close.

5. The Company agrees with each of the Underwriters:

(a) (i) To prepare the Prospectus in a form reasonably approved by you and to file such Prospectus pursuant to Rule 424(b) under the Act not later than the Commission's close of business on the second business day following the execution and delivery of this Agreement; (ii) to make no further amendment or any supplement to the Registration Statement, the Basic Prospectus or the Prospectus prior to the last Time of Delivery which shall be disapproved by you promptly after reasonable notice thereof; (iii) to advise you, promptly after it receives notice thereof, of the time when any amendment to the Registration Statement has been filed or becomes effective or any amendment or supplement to the Prospectus has been filed and to furnish you with copies thereof; (iv) to file promptly all other materials required to be filed by the Company with the Commission pursuant to Rule 433(d) under the Act; (v) to file promptly all reports and any definitive proxy or information statements required to be filed by the Company with the Commission pursuant to Section 13(a), 13(c), 14 or 15(d) of the Exchange Act subsequent to the date of the Prospectus and for so long as the delivery of a prospectus (or in lieu thereof, the notice referred to in Rule 173(a) under the Act) is required in connection with the offering or sale of the Securities; (vi) to advise you, promptly after it receives notice thereof, of the issuance by the Commission of any stop order or of any order preventing or suspending the use of any Preliminary Prospectus or other prospectus in respect of the Securities, of any notice of objection of the Commission to the use of the Registration Statement or any post-effective amendment thereto pursuant to Rule 401(g)(2) under the Act, of the suspension of the qualification of the Securities for offering or sale in any jurisdiction, of the initiation or threatening of any proceeding for any such purpose, or of any request by the Commission for the amending or supplementing of the Registration Statement or the Prospectus or for additional information; and (vii) in the event of the issuance of any stop order or of any order preventing or suspending the use of any Preliminary Prospectus or other prospectus or suspending any such qualification, to promptly use its reasonable best efforts to obtain the withdrawal of such order and in the event of any such issuance of a notice of objection, promptly to take such steps including, without limitation, amending the Registration Statement or filing a new registration statement, at its own expense, as may be necessary to permit offers and sales of the Securities by the Underwriters (references herein to the Registration Statement shall include any such amendment or new registration statement);

(b) If required by Rule 430B(h) under the Act, to prepare a form of prospectus in a form approved by you and to file such form of prospectus pursuant to Rule 424(b) under the Act not later than may be required by Rule 424(b) under the Act; and to make no further amendment or supplement to such form of prospectus which shall be disapproved by you promptly after reasonable notice thereof;

(c) If by the third anniversary (the “Renewal Deadline”) of the initial effective date of the Registration Statement, any of the Securities remain unsold by the Underwriters, the Company will file, if it has not already done so and is eligible to do so, a new automatic shelf registration statement relating to the Securities, in a form satisfactory to you. If at the Renewal Deadline the Company is no longer eligible to file an automatic shelf registration statement, the Company will, if it has not already done so, file a new shelf registration statement relating to the Securities, in a form satisfactory to you and will use its best efforts to cause such registration statement to be declared effective within 180 days after the Renewal Deadline. The Company will take all other action necessary or appropriate to permit the public offering and sale of the Securities to continue as contemplated in the expired registration statement relating to the Securities. References herein to the Registration Statement shall include such new automatic shelf registration statement or such new shelf registration statement, as the case may be;

(d) Promptly from time to time to take such action as the Representative may reasonably request to qualify the Securities for offering and sale under the securities laws of such jurisdictions as the Representative may reasonably request and to comply with such laws so as to permit the continuance of sales and dealings therein in such jurisdictions for as long as may be necessary to complete the distribution of the Securities, provided that in connection therewith the Company shall not be required to qualify as a foreign corporation or to file a general consent to service of process in any jurisdiction or subject itself to taxation in any jurisdiction in which it is not otherwise subject to taxation on the date hereof;

(e) Prior to 10:00 a.m., New York City time, on the New York Business Day next succeeding the date of this Agreement and from time to time, to furnish the Underwriters with written and electronic copies of the Prospectus and, if the delivery of a prospectus (or in lieu thereof, the notice referred to in Rule 173(a) under the Act) is required at any time prior to the expiration of nine months after the time of issue of the Prospectus in connection with the offering or sale of the Securities and if at such time any event shall have occurred as a result of which the Prospectus as then amended or supplemented would include an untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made when such Prospectus (or in lieu thereof, the notice referred to in Rule 173(a) under the Act) is delivered, not misleading, or, if for any other reason it shall be necessary during such period to amend or supplement the Prospectus or to file under the Exchange Act any document incorporated by reference therein in order to comply with the Act or the Exchange Act, to notify you and upon your request to file such document and to prepare and furnish without charge to each Underwriter and to any dealer in securities (whose name and address the Representative shall furnish in writing to the Company) an electronic copy as you may from time to time reasonably request of an amended Prospectus or a supplement to the Prospectus which will correct such statement or omission or effect such compliance; and in case any Underwriter is required to deliver a prospectus (or in lieu thereof, the notice referred to in Rule 173(a) under the Act) in connection with sales of any of the Securities at any time nine months or more after the time of issue of the Prospectus, upon your request but at the expense of such Underwriter, to prepare and deliver to such Underwriter as many written and electronic copies as you may reasonably request of an amended or supplemented Prospectus complying with Section 10(a)(3) of the Act;

(f) To make generally available to its securityholders as soon as practicable (which may be satisfied by filing with the Commission's Electronic Data Gathering, Analysis and Retrieval System ("EDGAR")), but in any event not later than sixteen months after the effective date of the Registration Statement (as defined in Rule 158(c) under the Act), an earnings statement of the Company and its subsidiaries (which need not be audited) complying with Section 11(a) of the Act and the rules and regulations of the Commission thereunder (including, at the option of the Company, Rule 158);

(g) During the period beginning from the date hereof and continuing to and including the date 90 days after the date of the Prospectus (the "Restricted Period"), not to, without the prior written consent of Goldman Sachs & Co. LLC, (i) offer, sell, contract to sell, pledge, grant any option to purchase, make any short sale or otherwise transfer or dispose of, directly or indirectly, or file with the Commission a registration statement under the Act relating to, any securities of the Company that are substantially similar to the Securities or the Mandatory Convertible Preferred Stock, including but not limited to any options or warrants to purchase shares of Common Stock or any securities that are convertible into or exchangeable for, or that represent the right to receive, Common Stock or any such substantially similar securities, or publicly disclose the intention to make any offer, sale, pledge, disposition or filing or (ii) enter into any swap or other agreement that transfers, in whole or in part, any of the economic consequences of ownership of the Common Stock or any such other securities, whether any such transaction described in clause (i) or (ii) above is to be settled by delivery of Common Stock or such other securities, in cash or otherwise. The foregoing restrictions shall not apply to (A) the Securities to be sold hereunder, (B) the issuance of the Mandatory Convertible Preferred Stock pursuant to the Mandatory Convertible Preferred Stock Offering and the issuance of the Conversion Securities and the filing of a registration statement, including any amendments thereto, with respect to the registration of the Mandatory Convertible Preferred Stock and Conversion Securities, (C) any securities of the Company issued pursuant to the Company's equity incentive plans described in the Registration Statement, the Prospectus or any documents incorporated by reference therein, or upon the exercise of stock options or stock appreciation rights or the vesting of restricted stock or performance awards granted thereunder, (D) facilitating the establishment of a trading plan on behalf of a shareholder, officer or director of the Company pursuant to Rule 10b5-1 under the Exchange Act for the transfer of shares of Common Stock provided that (x) such plan does not provide for the transfer of Common Stock during the Restricted Period and (y) to the extent a public announcement or filing under the Exchange Act, if any, is required of or voluntarily made by the Company regarding the establishment of such plan, such announcement or filing shall include a statement to the effect that no transfer of Common Stock may be made under such plan during the Restricted Period, (E) the filing of any registration statement on Form S-8 relating to securities granted or to be granted pursuant to the Company's equity incentive plans, (F) entry into any agreement providing for the issuance by the Company of shares of Common Stock or any securities convertible into or exercisable for shares of Common Stock in connection with the acquisition by the Company or any of its subsidiaries of the securities, business, property or other assets of another person or entity, and (G) pursuant to an employee benefit plan assumed by the Company or a subsidiary in connection with an acquisition (including the Acquisition), the issuance of securities pursuant to any acquisition agreement or the entry into any agreement providing for the issuance of shares of Common Stock or any security convertible into or exercisable for shares of Common Stock in connection with joint ventures, commercial relationships or other strategic transactions, and the issuance of any securities pursuant to any such agreement; provided that in the case of clause (G), the aggregate number of shares of Common Stock (or as converted Common Stock in the case of securities convertible into Common Stock or the right to receive shares of Common Stock) that the Company may sell, issue or agree to sell or issue shall not exceed 10% of the total number of shares of Common Stock outstanding immediately following the offering of Common Stock contemplated by this Agreement.

(h) To pay the required Commission filing fees relating to the Securities within the time required by Rule 456(b)(1) under the Act without regard to the proviso therein and otherwise in accordance with Rules 456(b) and 457(r) under the Act;

(i) To use the net proceeds received by it from the sale of the Securities pursuant to this Agreement in the manner specified in the Pricing Prospectus under the caption "Use of Proceeds"; and

(j) To use its reasonable best efforts to list, for trading, as promptly as is practicable after the date hereof, the Securities on the Nasdaq Global Select Market (the "Exchange").

6. (a) The Company represents that it has not made, and agrees that, without the prior consent of the Representative, it will not make, any offer relating to the Securities that would constitute a "free writing prospectus" as defined in Rule 405 under the Act; and each Underwriter represents that it has not made, and agrees that, without the prior consent of the Company and the Representative, it will not make any offer relating to the Securities that would constitute a free writing prospectus required to be filed with the Commission; any such free writing prospectus the use of which has been consented to by the Company and the Representative is listed on Schedule II(a) hereto;

(b) The Company has complied and will comply with the requirements of Rule 433 under the Act applicable to any Issuer Free Writing Prospectus, including timely filing with the Commission or retention where required and legending; and

(c) The Company agrees that if at any time following issuance of an Issuer Free Writing Prospectus any event occurs as a result of which such Issuer Free Writing Prospectus would conflict with the information in the Registration Statement, the Pricing Prospectus or the Prospectus or would include an untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances then prevailing, not misleading, the Company will give prompt notice thereof to the Representative and, if requested by the Representative, will prepare and furnish without charge to each Underwriter an Issuer Free Writing Prospectus or other document which will correct such conflict, statement or omission; provided, however, that this covenant shall not apply to any statements or omissions in an Issuer Free Writing Prospectus made in reliance upon and in conformity with the Underwriter Information.

7. The Company covenants and agrees with the several Underwriters that the Company will pay or cause to be paid the following: (i) the fees, disbursements and expenses of the Company's counsel and accountants in connection with the registration of the Securities under the Act and all other expenses in connection with the preparation, printing, reproduction and filing of the Registration Statement, the Basic Prospectus, any Preliminary Prospectus, any Issuer Free Writing Prospectus and the Prospectus and amendments and supplements thereto and the mailing and delivering of copies thereof to the Underwriters and dealers; (ii) the reasonably incurred costs of printing or producing any Agreement among Underwriters, this Agreement, the Blue Sky Memorandum, closing documents (including any compilations thereof) and any other documents in connection with the offering, purchase, sale and delivery of the Securities; (iii) all reasonably incurred expenses in connection with the qualification of the Securities for offering and sale under state securities laws as provided in Section 5(d) hereof, including the reasonable fees and disbursements of counsel for the Underwriters in connection with such qualification and in connection with the Blue Sky survey; (iv) all fees and expenses in connection with listing the Securities on the Exchange; (v) the filing fees incident to, and the reasonable and documented fees and disbursements of counsel for the Underwriters in connection with, any required review by FINRA of the terms of the sale of the Securities; (vi) the cost of preparing stock certificates, if applicable; (vii) the cost and charges of any transfer agent or registrar; and (viii) all other costs and expenses incident to the performance of its obligations hereunder which are not otherwise specifically provided for in this Section; provided that the aggregate amount payable by the Company with respect to fees and disbursements of counsel for the Underwriters pursuant to clauses (iii) and (v) of this Section 7 shall not exceed \$20,000. It is understood, however, that, except as provided in this Section, and Sections 9 and 12 hereof, the Underwriters will pay all of their own costs and expenses, including the fees of their counsel, stock transfer taxes on resale of any of the Securities by them, and any advertising expenses connected with any offers they may make.

8. The obligations of the Underwriters hereunder, as to the Securities to be delivered at each Time of Delivery shall be subject, in their discretion, to the condition that all representations and warranties and other statements of the Company herein are, at and as of the Applicable Time and such Time of Delivery, true and correct, the condition that the Company shall have performed all of its obligations hereunder theretofore to be performed in all material respects, and the following additional conditions:

(a) (i) The Prospectus shall have been filed with the Commission pursuant to Rule 424(b) under the Act within the applicable time period prescribed for such filing by the rules and regulations under the Act and in accordance with Section 5(a) hereof; (ii) all material required to be filed by the Company pursuant to Rule 433(d) under the Act shall have been filed with the Commission within the applicable time period prescribed for such filings by Rule 433; (iii) no stop order suspending the effectiveness of the Registration Statement or any part thereof shall have been issued and no proceeding for that purpose shall have been initiated or threatened by the Commission and no notice of objection of the Commission to the use of the Registration Statement or any post-effective amendment thereto pursuant to Rule 401(g)(2) under the Act shall have been received; (iv) no stop order suspending or preventing the use of the Preliminary Prospectus, Prospectus or any Issuer Free Writing Prospectus shall have been initiated or threatened by the Commission; and (v) all requests for additional information on the part of the Commission shall have been complied with to your reasonable satisfaction;

(b) Latham & Watkins LLP, counsel for the Underwriters, shall have furnished to you such written opinion or opinions, dated such Time of Delivery, in form and substance reasonably satisfactory to you, and such counsel shall have received such papers and information as they may reasonably request to enable them to pass upon such matters;

(c) Kirkland & Ellis LLP, counsel for the Company, shall have furnished to you their written opinion, dated each Time of Delivery, in form and substance reasonably satisfactory to you;

(e) On the date of the Prospectus, on the effective date of any post-effective amendment to the Registration Statement filed subsequent to the date of this Agreement and also at each Time of Delivery, Ernst & Young LLP shall have furnished to you a letter or letters, dated the respective dates of delivery thereof, in form and substance reasonably satisfactory to you;

(f) On the date of the Prospectus, on the effective date of any post-effective amendment to the Registration Statement filed subsequent to the date of this Agreement and also at each Time of Delivery, KPMG AG shall have furnished to you a letter or letters, dated the respective dates of delivery thereof, in form and substance reasonably satisfactory to you;

(g) (i) Neither the Company nor any of its Subsidiaries shall have sustained since the date of the latest audited financial statements included or incorporated by reference in the Pricing Prospectus any loss or interference with its business from fire, explosion, flood or other calamity, whether or not covered by insurance, or from any court or governmental action, order or decree that would reasonably be expected to result in a Material Adverse Effect, otherwise than as set forth or contemplated in the Pricing Prospectus, and (ii) since the respective dates as of which information is given in the Pricing Prospectus there shall not have been any change in the capital stock (other than in connection with the Mandatory Convertible Preferred Stock Offering or as a result of the exercise of stock options, the exercise of stock appreciation rights, the vesting of restricted stock, the granting or forfeiture of stock options, restricted stock units or other equity awards in the ordinary course of business pursuant to the Company's equity incentive plans) or long-term debt of the Company or any of its Subsidiaries (other than in connection with any voluntary prepayments of long-term debt of the Company or any of its Subsidiaries or indebtedness incurred pursuant to the Senior Notes Offering or the Senior Secured Credit Facilities) or any change or effect, that would reasonably be expected to result in a Material Adverse Effect, except as set forth or contemplated in the Pricing Prospectus and the Prospectus, the effect of which, in any such case described in clause (i) or (ii), is in your judgment so material and adverse as to make it impracticable or inadvisable to proceed with the public offering or the delivery of the Securities being delivered at such Time of Delivery on the terms and in the manner contemplated in the Pricing Prospectus and the Prospectus;

(h) On or after the Applicable Time (i) no downgrading shall have occurred in the rating accorded the Company's debt securities by any "nationally recognized statistical rating organization", as defined in Section 3(a)(62) of the Exchange Act, and (ii) no such organization shall have publicly announced that it has under surveillance or review, with possible negative implications, its rating of any of the Company's debt securities;

(i) On or after the Applicable Time there shall not have occurred any of the following: (i) a suspension or material limitation in trading in securities generally on the Exchange; (ii) a suspension or material limitation in trading in the Company's securities on the Exchange; (iii) a general moratorium on commercial banking activities declared by either Federal or New York State authorities or a material disruption in commercial banking or securities settlement or clearance services in the United States; (iv) the outbreak or escalation of hostilities involving the United States or the declaration by the United States of a national emergency or war; or (v) the occurrence of any other calamity or crisis or any change in financial, political or economic conditions in the United States or elsewhere, if the effect of any such event specified in clause (iv) or (v) in your judgment, is material and adverse, and makes it impracticable or inadvisable to proceed with the public offering or the delivery of the Securities being delivered at such Time of Delivery on the terms and in the manner contemplated in the Pricing Prospectus and the Prospectus;

(j) The Securities to be sold at each Time of Delivery shall have been duly listed, subject to official notice of issuance, on the Exchange;

(k) The Company has obtained and delivered to the Underwriters executed copies of an agreement from each executive officer and director of the Company, substantially to the effect set forth in Annex I hereto in form and substance reasonably satisfactory to you;

(l) The Company shall have complied with the provisions of Section 5(e) hereof with respect to the furnishing of prospectuses within two New York Business Days following the date of this Agreement; and

(m) The Company shall have furnished or caused to be furnished to you at such Time of Delivery certificates of officers of the Company reasonably satisfactory to you as to (i) the accuracy of the representations and warranties of the Company, herein at and as of such Time of Delivery, (ii) the performance by the Company in all material respects of all of its obligations hereunder to be performed at or prior to such Time of Delivery, and (iii) the matters set forth in subsections (a) and (g) of this Section 8.



9. (a) The Company will indemnify and hold harmless each Underwriter against any losses, claims, damages or liabilities, joint or several, to which such Underwriter may become subject, under the Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon an untrue statement or alleged untrue statement of a material fact contained in the Registration Statement, the Basic Prospectus, any Preliminary Prospectus, the Pricing Prospectus or the Prospectus, or any amendment or supplement thereto, any Issuer Free Writing Prospectus, any "roadshow" as defined in Rule 433(h) under the Act (a "roadshow"), any "issuer information" filed or required to be filed pursuant to Rule 433(d) under the Act or any Testing-the-Waters Communication, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, and will reimburse each Underwriter for any legal or other expenses reasonably incurred by such Underwriter in connection with investigating or defending any such action or claim as such expenses are incurred; provided, however, that the Company shall not be liable in any such case to the extent that any such loss, claim, damage or liability arises out of or is based upon an untrue statement or alleged untrue statement or omission or alleged omission made in the Registration Statement, the Basic Prospectus, any Preliminary Prospectus, the Pricing Prospectus or the Prospectus, or any amendment or supplement thereto, or any Issuer Free Writing Prospectus, in reliance upon and in conformity with the Underwriter Information.

(b) Each Underwriter, severally and not jointly, will (i) indemnify and hold harmless the Company, the directors of the Company, the officers who sign the Registration Statement and each person, if any, who controls the Company within the meaning of Section 15 of the Act or Section 20 of the Exchange Act (collectively, the "Company Indemnitees"), against any losses, claims, damages or liabilities to which the Company Indemnitees may become subject, under the Act or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon an untrue statement or alleged untrue statement of a material fact contained in the Registration Statement, the Basic Prospectus, any Preliminary Prospectus, the Pricing Prospectus or the Prospectus, or any amendment or supplement thereto, or any Issuer Free Writing Prospectus, or any roadshow, or any Testing-the-Waters Communication, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, in each case to the extent, but only to the extent, that such untrue statement or alleged untrue statement or omission or alleged omission was made in the Registration Statement, the Basic Prospectus, any Preliminary Prospectus, the Pricing Prospectus or the Prospectus, or any such amendment or supplement thereto, or any Issuer Free Writing Prospectus, or any roadshow, or any Testing-the-Waters Communication, in reliance upon and in conformity with the Underwriter Information, and (ii) reimburse the Company Indemnitees for any legal or other expenses reasonably incurred by the Company Indemnitees in connection with investigating or defending any such action or claim as such expenses are incurred. As used in this Agreement with respect to an Underwriter and an applicable document, "Underwriter Information" shall mean the written information furnished to the Company by such Underwriter through the Representative expressly for use therein; it being understood and agreed upon that the only such information furnished by any Underwriter consists of the following information in the Prospectus furnished on behalf of each Underwriter: the information contained in the fifth, eighth, ninth, tenth and eleventh paragraphs under the caption "Underwriting."

(c) Promptly after receipt by an indemnified party under subsection (a) or (b) of this Section 9 of notice of the commencement of any action, such indemnified party shall, if a claim in respect thereof is to be made against the indemnifying party under such subsection, notify the indemnifying party in writing of the commencement thereof; provided that the failure to notify the indemnifying party shall not relieve it from any liability that it may have under the preceding paragraphs of this Section 9 except to the extent that it has been materially prejudiced (through the forfeiture of substantive rights or defenses) by such failure; and provided further that the failure to notify the indemnifying party shall not relieve it from any liability that it may have to an indemnified party otherwise than under the preceding paragraphs of this Section 9. In case any such action shall be brought against any indemnified party and it shall notify the indemnifying party of the commencement thereof, the indemnifying party shall be entitled to participate therein and, to the extent that it shall wish, jointly with any other indemnifying party similarly notified, to assume the defense thereof, with counsel reasonably satisfactory to such indemnified party (who shall not, except with the consent of the indemnified party, be counsel to the indemnifying party), and, after notice from the indemnifying party to such indemnified party of its election so to assume the defense thereof, the indemnifying party shall not be liable to such indemnified party under such subsection for any legal expenses of other counsel or any other expenses, in each case subsequently incurred by such indemnified party, in connection with the defense thereof other than reasonable costs of investigation. No indemnifying party shall, without the written consent of the indemnified party, effect the settlement or compromise of, or consent to the entry of any judgment with respect to, any pending or threatened action or claim in respect of which indemnification or contribution may be sought hereunder (whether or not the indemnified party is an actual or potential party to such action or claim) unless such settlement, compromise or judgment (A) includes an unconditional release of the indemnified party from all liability arising out of such action or claim and (B) does not include a statement as to or an admission of fault, culpability or a failure to act, by or on behalf of any indemnified party. An indemnifying party shall not be required to indemnify an indemnified party for any amount paid or payable by the indemnified party in the settlement of any action, proceeding or investigation without the written consent of the indemnifying party, which consent shall not be unreasonably withheld, but if settled with such consent or if there be a final judgment for the plaintiff, the indemnifying party agrees to indemnify the indemnified party from and against any loss or liability by reason of such settlement or judgment. Notwithstanding the foregoing sentence, if at any time an indemnified party shall have requested by written notice that an indemnifying party indemnify an indemnified party for any fees and expenses of counsel as set forth in the foregoing sentence, the indemnifying party shall be liable for any settlement of any proceeding effected without its written consent if (i) such settlement is entered into more than 30 days after receipt by the indemnifying party of such written request and (ii) the indemnifying party shall not have reimbursed the indemnified party in accordance with such written request prior to the date of such settlement.

(d) If the indemnification provided for in this Section 9 is unavailable to or insufficient to hold harmless an indemnified party under subsection (a) or (b) above in respect of any losses, claims, damages or liabilities (or actions in respect thereof) referred to therein, then each indemnifying party shall contribute to the amount paid or payable by such indemnified party as a result of such losses, claims, damages or liabilities (or actions in respect thereof) in such proportion as is appropriate to reflect the relative benefits received by the Company on the one hand and the Underwriters on the other from the offering of the Securities. If, however, the allocation provided by the immediately preceding sentence is not permitted by applicable law, then each indemnifying party shall contribute to such amount paid or payable by such indemnified party in such proportion as is appropriate to reflect not only such relative benefits but also the relative fault of the Company on the one hand and the Underwriters on the other in connection with the statements or omissions which resulted in such losses, claims, damages or liabilities (or actions in respect thereof), as well as any other relevant equitable considerations. The relative benefits received by the Company on the one hand and the Underwriters on the other shall be deemed to be in the same proportion as the total net proceeds from the offering (before deducting expenses) received by the Company bear to the total underwriting discounts and commissions received by the Underwriters, in each case as set forth in the table on the cover page of the Prospectus. The relative fault shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company on the one hand or the Underwriters on the other and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. The Company and the Underwriters agree that it would not be just and equitable if contribution pursuant to this subsection (e) were determined by pro rata allocation (even if the Underwriters were treated as one entity for such purpose) or by any other method of allocation which does not take account of the equitable considerations referred to above in this subsection (d). The amount paid or payable by an indemnified party as a result of the losses, claims, damages or liabilities (or actions in respect thereof) referred to above in this subsection (d) shall be deemed to include any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action or claim. Notwithstanding the provisions of this subsection (d), no Underwriter shall be required to contribute any amount in excess of the amount by which the total price at which the Securities underwritten by it and distributed to the public were offered to the public exceeds the amount of any damages which such Underwriter has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. The Underwriters' obligations in this subsection (d) to contribute are several in proportion to their respective underwriting obligations and not joint.

(e) The obligations of the Company under this Section 9 shall be in addition to any liability which the Company may otherwise have and shall extend, upon the same terms and conditions, to each employee, officer and director of each Underwriter and each person, if any, who controls any Underwriter within the meaning of the Act and each broker-dealer or other affiliate of any Underwriter; and the obligations of the Underwriters under this Section 9 shall be in addition to any liability which the respective Underwriters may otherwise have and shall extend, upon the same terms and conditions, to each officer and director of the Company (including any person who, with his or her consent, is named in the Registration Statement as about to become a director of the Company) and to each person, if any, who controls the Company within the meaning of the Act.

10. (a) If any Underwriter shall default in its obligation to purchase the Securities that it has agreed to purchase hereunder at a Time of Delivery, the Representative may in their discretion arrange for the Representative or another party or other parties to purchase such Securities on the terms contained herein. If within thirty-six hours after such default by any Underwriter the Representative do not arrange for the purchase of such Securities, then the Company shall be entitled to a further period of thirty-six hours within which to procure another party or other parties satisfactory to the Representative to purchase such Securities on such terms. In the event that, within the respective prescribed periods, the Representative notify the Company that they have so arranged for the purchase of such Securities, or the Company notifies the Representative that it has so arranged for the purchase of such Securities, the Representative or the Company shall have the right to postpone such Time of Delivery for a period of not more than seven days in order to effect whatever changes may thereby be made necessary in the Registration Statement or the Prospectus, or in any other documents or arrangements, and the Company agrees to file promptly any amendments or supplements to the Registration Statement or the Prospectus which in the Representative's opinion may thereby be made necessary. The term "Underwriter" as used in this Agreement shall include any person substituted under this Section with like effect as if such person had originally been a party to this Agreement with respect to such Securities.

(b) If, after giving effect to any arrangements for the purchase of the Securities of a defaulting Underwriter or Underwriters by the Representative and the Company as provided in subsection (a) above, the aggregate number of such Securities which remains unpurchased does not exceed one-eleventh of the aggregate number of all the Securities to be purchased at such Time of Delivery, then the Company shall have the right to require each non-defaulting Underwriter to purchase the number of Securities which such Underwriter agreed to purchase hereunder at such Time of Delivery and, in addition, to require each non-defaulting Underwriter to purchase its pro rata share (based on the number of Securities which such Underwriter agreed to purchase hereunder) of the Securities of such defaulting Underwriter or Underwriters for which such arrangements have not been made; but nothing herein shall relieve a defaulting Underwriter from liability for its default.

(c) If, after giving effect to any arrangements for the purchase of the Securities of a defaulting Underwriter or Underwriters by the Representative and the Company as provided in subsection (a) above, the aggregate number of such Securities which remains unpurchased exceeds one-eleventh of the aggregate number of all the Securities to be purchased at such Time of Delivery, or if the Company shall not exercise the right described in subsection (b) above to require non-defaulting Underwriters to purchase Securities of a defaulting Underwriter or Underwriters, then this Agreement (or, with respect to a Second Time of Delivery, the obligations of the Underwriters to purchase and of the Company to sell the Optional Securities) shall thereupon terminate, without liability on the part of any non-defaulting Underwriter or the Company, except for the expenses to be borne by the Company and the Underwriters as provided in Section 7 hereof and the indemnity and contribution agreements in Section 9 hereof; but nothing herein shall relieve a defaulting Underwriter from liability for its default.

11. The respective indemnities, rights of contribution, agreements, representations, warranties and other statements of the Company and the several Underwriters, as set forth in this Agreement or made by or on behalf of them, respectively, pursuant to this Agreement, shall remain in full force and effect, regardless of any investigation (or any statement as to the results thereof) made by or on behalf of any Underwriter or any controlling person of any Underwriter, or the Company, or any officer or director or controlling person of the Company, and shall survive delivery of and payment for the Securities.

12. If this Agreement shall be terminated pursuant to Section 10 hereof, the Company shall not then be under any liability to any Underwriter except as provided in Sections 7 and 9 hereof; but, if for any other reason (other than those set forth in clauses (i), (iii), (iv) and (v) of Section 8(i)), any Securities are not delivered by or on behalf of the Company as provided herein, the Company will reimburse the Underwriters through you for all reasonable and documented out-of-pocket expenses approved in writing by you, including fees and disbursements of counsel, reasonably incurred by the Underwriters in making preparations for the purchase, sale and delivery of the Securities not so delivered, but the Company shall then be under no further liability to any Underwriter except as provided in Sections 7 and 9 hereof.

13. In all dealings hereunder, the Representative shall act on behalf of each of the Underwriters, and the parties hereto shall be entitled to act and rely upon any statement, request, notice or agreement on behalf of any Underwriter made or given by the Representative.

In accordance with the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)), the Underwriters are required to obtain, verify and record information that identifies their respective clients, including the Company, which information may include the name and address of their respective clients, as well as other information that will allow the Underwriters to properly identify their respective clients.

All statements, requests, notices and agreements hereunder shall be in writing, and if to the Underwriters shall be delivered or sent by mail, telex or facsimile transmission to Goldman Sachs & Co. LLC, 200 West Street, New York, New York 10282, Attention: Registration Department; if to the Company shall be delivered or sent by mail or facsimile transmission to the address of the Company set forth on the cover of the Registration Statement, Attention: John J. Feeney; provided, however, that any notice to an Underwriter pursuant to Section 9(c) hereof shall be delivered or sent by mail, telex or facsimile transmission to such Underwriter at its address set forth in its Underwriters' Questionnaire or telex constituting such Questionnaire, which address will be supplied to the Company by you on request. Any such statements, requests, notices or agreements shall take effect upon receipt thereof.

14. This Agreement shall be binding upon, and inure solely to the benefit of, the Underwriters and the Company and, to the extent provided in Sections 9 and 11 hereof, the officers and directors of the Company and each person who controls the Company or any Underwriter, or any director, officer, employee, or affiliate of any Underwriter, and their respective heirs, executors, administrators, successors and assigns, and no other person shall acquire or have any right under or by virtue of this Agreement. No purchaser of any of the Securities from any Underwriter shall be deemed a successor or assign by reason merely of such purchase.

15. Time shall be of the essence of this Agreement. As used herein, the term "business day" shall mean any day when the Commission's office in Washington, D.C. is open for business.

16. The Company acknowledges and agrees that (i) the purchase and sale of the Securities pursuant to this Agreement is an arm's-length commercial transaction between the Company on the one hand, and the several Underwriters, on the other, (ii) in connection therewith and with the process leading to such transaction each Underwriter is acting solely as a principal and not the agent or fiduciary of the Company, (iii) no Underwriter has assumed an advisory or fiduciary responsibility in favor of the Company with respect to the offering contemplated hereby or the process leading thereto (irrespective of whether such Underwriter has advised or is currently advising the Company on other matters) or any other obligation to the Company except the obligations expressly set forth in this Agreement, (iv) the Company has consulted its own legal and financial advisors to the extent it deemed appropriate, and (v) none of the activities of the Underwriters in connection with the transactions contemplated herein constitutes a recommendation, investment advice, or solicitation of any action by the Underwriters with respect to any entity or natural person. The Company agrees that it will not claim that the Underwriters, or any of them, has rendered advisory services of any nature or respect, or owes a fiduciary or similar duty to the Company, in connection with such transaction or the process leading thereto.

17. This Agreement supersedes all prior agreements and understandings (whether written or oral) between the Company and the Underwriters, or any of them, with respect to the subject matter hereof.

**18. This Agreement and any transaction contemplated by this Agreement and any claim, controversy or dispute arising under or related thereto shall be governed by and construed in accordance with the laws of the State of New York without regard to principles of conflict of laws that would result in the application of any other law than the laws of the State of New York. The Company agrees that any suit or proceeding arising in respect of this Agreement or any transaction contemplated by this Agreement will be tried exclusively in the U.S. District Court for the Southern District of New York or, if that court does not have subject matter jurisdiction, in any state court located in The City and County of New York and the Company agrees to submit to the jurisdiction of, and to venue in, such courts.**

19. The Company and each of the Underwriters hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Agreement or the transactions contemplated hereby.

20. This Agreement may be executed by any one or more of the parties hereto in any number of counterparts, each of which shall be deemed to be an original, but all such respective counterparts shall together constitute one and the same instrument. Counterparts may be delivered via facsimile, electronic mail (including any electronic signature covered by the U.S. federal E-SIGN Act of 2000, Uniform Electronic Transactions Act, the Electronic Signatures and Records Act or other applicable law, e.g., [www.docusign.com](http://www.docusign.com)) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

21. Notwithstanding anything herein to the contrary, the Company is authorized to disclose to any persons the U.S. federal and state income tax treatment and tax structure of the potential transaction and all materials of any kind (including tax opinions and other tax analyses) provided to the Company relating to that treatment and structure, without the Underwriters imposing any limitation of any kind. However, any information relating to the tax treatment and tax structure shall remain confidential (and the foregoing sentence shall not apply) to the extent necessary to enable any person to comply with securities laws. For this purpose, "tax structure" is limited to any facts that may be relevant to that treatment.

## 22. Recognition of the U.S. Special Resolution Regimes.

(a) In the event that any Underwriter that is a Covered Entity becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer from such Underwriter of this Agreement, and any interest and obligation in or under this Agreement, will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if this Agreement, and any such interest and obligation, were governed by the laws of the United States or a state of the United States.

(b) In the event that any Underwriter that is a Covered Entity or a BHC Act Affiliate of such Underwriter becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under this Agreement that may be exercised against such Underwriter are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if this Agreement were governed by the laws of the United States or a state of the United States.

(c) As used in this section:

"BHC Act Affiliate" has the meaning assigned to the term "affiliate" in, and shall be interpreted in accordance with, 12 U.S.C. § 1841(k).

"Covered Entity" means any of the following:

(i) a "covered entity" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b);

(ii) a "covered bank" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or

(iii) a "covered FSI" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

"Default Right" has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

"U.S. Special Resolution Regime" means each of (i) the Federal Deposit Insurance Act and the regulations promulgated thereunder and (ii) Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act and the regulations promulgated thereunder.

If the foregoing is in accordance with your understanding, please sign and return to us one for the Company and the Representative's counterpart hereof, and upon the acceptance hereof by you, on behalf of each of the Underwriters, this letter and such acceptance hereof shall constitute a binding agreement between each of the Underwriters and the Company. It is understood that your acceptance of this letter on behalf of each of the Underwriters is pursuant to the authority set forth in a form of Agreement among Underwriters, the form of which shall be submitted to the Company for examination, upon request, but without warranty on your part as to the authority of the signers thereof.

Very truly yours,

**RBC Bearings Incorporated**

By: /s/ Michael J. Hartnett

**Name:** Michael J. Hartnett

**Title:** Chairman, President and Chief Executive Officer

Accepted as of the date hereof

**Goldman Sachs & Co. LLC**

By: /s/ Raffael Fiumara

**Name:** Raffael Fiumara

**Title:** Vice President

On behalf of each of the Underwriters

*[Signature Page to Underwriting Agreement]*

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**SCHEDULE I**

<b>Underwriter</b>	<b>Total Number of Firm Securities to be Purchased</b>
Goldman Sachs & Co. LLC	1,200,900
Wells Fargo Securities, LLC	600,600
BofA Securities, Inc.	246,000
Citigroup Global Markets Inc.	246,000
Truist Securities, Inc.	138,300
Citizens Capital Markets, Inc.	115,800
Fifth Third Securities, Inc.	115,800
KeyBanc Capital Markets Inc.	115,800
Regions Securities LLC	115,800
Morgan Stanley & Co. LLC	45,000
Academy Securities, Inc.	30,000
William Blair & Company, L.L.C.	30,000
<b>Total:</b>	<b>3,000,000</b>

**SCHEDULE II**

- (a) Issuer Free Writing Prospectuses not included in the Pricing Disclosure Package

None.

- (b) Issuer Free Writing Prospectuses included in the Pricing Disclosure Package

Free Writing Prospectus relating to the Securities dated September 21, 2021 and filed with the Commission.

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### SCHEDULE III

Roller Bearing Company of America, Inc.  
RBC Precision Products, Inc.  
Industrial Tectonics Bearings Corporation  
RBC Nice Bearings, Inc.  
RBC Lubron Bearing Systems, Inc.  
RBC Oklahoma, Inc.  
RBC Aircraft Products, Inc.  
RBC Southwest Products, Inc.  
All Power Manufacturing Co.  
RBC Aerostructures LLC  
Western Precision Aero LLC  
Climax Metal Products Company  
RBC Turbine Components LLC  
Sargent Aerospace and Defense LLC  
Airtomic LLC  
Sonic Industries, Inc.  
RBC de Mexico S DE RL DE CV  
Schaublin Holding SA  
Schaublin SA  
RBC France SAS  
Shanghai Representative Office of Roller Bearing Company of America, Inc.  
RBC Bearings U.K. Limited  
RBC Bearings Polska sp. z o.o.  
All Power de Mexico, S DE RL DE CV  
RBC Bearings Canada, Inc.  
Schaublin GmbH  
Vanel Holding AG  
Beck Bühler Mutschler Capital AG  
Bär und Mettler AG  
MBM Monstein Bär Mettler Modulare Werkzeugsysteme AG  
Swiss Tool Systems AG  
Dodge Acquisition Co.

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**FORM OF LOCK-UP AGREEMENT**

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**RBC Bearings Incorporated**

**Lock-Up Agreement**

[●], 2021

Goldman Sachs & Co. LLC  
200 West Street  
New York, NY 10282-2198

Re: RBC Bearings Incorporated - Lock-Up Agreement

Ladies and Gentlemen:

The undersigned understands that you, as the representative (the “Representative”), propose to enter into an underwriting agreement on behalf of the several Underwriters named in Schedule I to such agreement (collectively, the “Underwriters”) with RBC Bearings Incorporated, a Delaware corporation (the “Company”), providing for a public offering of common stock, par value \$0.01 per share (the “Common Stock” and such offering, the “Offering”), of the Company (the “Common Stock Underwriting Agreement”) pursuant to a Registration Statement on Form S-3 (the “Registration Statement”) to be filed with the Securities and Exchange Commission (the “SEC”).

It is understood that the Company and the Underwriters also propose to enter into an underwriting agreement (the “Preferred Stock Underwriting Agreement”) providing for a public offering (the “Preferred Stock Offering”) of Series A Mandatory Convertible Preferred Stock, par value \$0.01 per share, with a liquidation preference of \$100 per share (the “Preferred Stock”), substantially concurrently with the Offering. The Preferred Stock will be convertible into a variable number of shares of Common Stock in accordance with the terms thereof (the “Conversion Stock”).

In consideration of the agreement by the Underwriters to offer and sell the Common Stock, and of other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the undersigned agrees that, during the period beginning from the date of this Lock-Up Agreement and continuing to and including the date 90 days after the date set forth on the final prospectus used to sell the Common Stock (the “Lock-Up Period”), the undersigned will not (i) offer, sell, contract to sell, pledge, grant any option to purchase, lend or otherwise dispose of any shares of Common Stock, or any options or warrants to purchase any shares of Common Stock, or any securities convertible into, exchangeable for or that represent the right to receive shares of Common Stock, including, for the avoidance of doubt, the Preferred Stock and the Conversion Stock (such options, warrants or other securities, collectively, “Derivative Instruments”), including without limitation any such Common Stock or Derivative Instruments now owned or hereafter acquired by the undersigned or (ii) engage in any hedging or other transaction or arrangement (including, without limitation, any short sale or the purchase or sale of, or entry into, any put or call option, or combination thereof, forward, swap or any other derivative transaction or instrument that includes, relates to or derives any significant part of its value from the Common Stock) which is designed to or which reasonably could be expected to lead to or result in a sale or disposition (whether by the undersigned or someone other than the undersigned) of Common Stock, or transfer of any of the economic consequences of ownership, in whole or in part, directly or indirectly, of any shares of Common Stock of the Company or Derivative Instruments, whether any such transaction or arrangement (or instrument provided for thereunder) would be settled by delivery of Common Stock or other securities, in cash or otherwise (any such sale, loan, pledge or other disposition, or transfer of economic consequences, a “Transfer”) or (iii) otherwise publicly announce any intention to engage in or cause any action or activity described in clause (i) above or transaction or arrangement described in clause (ii) above. The undersigned represents and warrants that the undersigned is not, and has not caused or directed any of its affiliates to be or become, currently a party to any agreement or arrangement that provides for, is designed to or which reasonably could be expected to lead to or result in any Transfer during the Lock-Up Period. For the avoidance of doubt, the undersigned agrees that the foregoing provisions shall be equally applicable to any issuer-directed or other Common Stock the undersigned may purchase in the Offering.

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Notwithstanding the foregoing, the undersigned may transfer the undersigned's Common Stock or Derivative Instruments:

- (i) as a bona fide gift or gifts, or to a charitable organization or non-profit educational institution, provided that the donee or donees thereof agree to be bound in writing by the restrictions set forth herein;
  - (ii) to any members of the immediate family of the undersigned or to any trust, partnership, limited liability company or other entity for the direct or indirect benefit of the undersigned or the immediate family of the undersigned, provided that the transferee agrees to be bound in writing by the restrictions set forth herein, and provided further that any such transfer shall not involve a disposition for value;
  - (iii) by way of will, other testamentary document or intestate succession to the legal representatives, heirs, beneficiary or immediate family of the undersigned, provided that the transferee or transferees thereof agree to be bound in writing by the restrictions set forth herein;
  - (iv) by operation of law, pursuant to a court order, qualified domestic order or regulatory order, in connection with a divorce settlement or to comply with any regulations related to the undersigned's ownership of Common Stock or Derivative Instruments; provided, that in the case of any transfer or distribution pursuant to this clause, any filing under Section 16(a) of the Exchange Act reporting a reduction in beneficial ownership of shares of Common Stock shall state that such transfer is by operation of law, pursuant to a court order, qualified domestic order, regulatory order, in connection with a divorce settlement or to comply with any regulations related to the ownership of Common Stock, as applicable, unless such a statement would be prohibited by any applicable law, regulation or order of a court or regulatory authority;
  - (v) (i) to a corporation, partnership, limited liability company, association, joint stock company, trust, joint venture or other entity that is an affiliate (as defined in Rule 405 under the Securities Act of 1933, as amended (the "Securities Act")) of, or directly or indirectly, through one or more intermediaries, controls, is controlled by, is wholly owned by, or is under common control with the undersigned and/or members of the immediate family of the undersigned, or in each case, a direct or indirect parent of the undersigned, or (ii) to any investment fund or other entity controlled or managed by the undersigned, in each case provided that the transferee or transferees thereof agree to be bound in writing by the restrictions set forth herein; provided, that in the case of any transfer or distribution pursuant to this clause, any filing under Section 16(a) of the Exchange Act that the undersigned is required to file during the Lock-Up Period shall include a statement regarding the circumstances of the transfer or distribution.
  - (vi) to the Company in connection with the "net" or "cashless" exercise or settlement of any stock options, restricted stock units or other equity awards outstanding on or prior to the date hereof or on the date of the Underwriting Agreement; provided that the Common Stock or Derivative Instruments received upon such exercise shall be subject to the terms of this Lock-Up Agreement; and provided further that if the undersigned is required to file a report under Section 16(a) of the Exchange Act during the Lock-Up Period, the undersigned shall include a statement in any such report to the effect that (i) such transfer is in connection with the "net" or "cashless" exercise or settlement of any stock options, restricted stock units or other equity awards, as applicable and (ii) the transaction was only with the Company.
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- (vii) to the Company for the primary purposes of satisfying any tax or other governmental withholding obligation with respect to (A) Common Stock or Derivative Instruments issued upon the exercise of an option or warrant (or upon the exchange of another security or securities) or (B) the lapse of restrictions on Common Stock pursuant to a plan in effect on or prior to the date hereof or on the date of the Underwriting Agreement, or issued under an employee equity or benefit plan on or prior to the date hereof or on the date of the Underwriting Agreement;
- (viii) to the Company upon exercise of the Company's right to repurchase or reacquire the undersigned's Common Stock or Derivative Instruments pursuant to employment agreements or employee equity or benefit plans in effect on or prior to the date hereof or on the date of the Underwriting Agreement, including in the event the undersigned ceases to provide services to the Company; provided that any filing under Section 16(a) of the Exchange Act relating to such transfers shall clearly indicate in the footnotes thereto that the Common Stock or Derivative Instruments were repurchased or reacquired by the Company;
- (ix) to a nominee or custodian of a person or entity to whom a disposition or transfer would be permitted hereunder; provided, that the transferee agrees to be bound in writing by the restrictions set forth herein;
- (x) in transactions relating to shares of Common Stock acquired in open market transactions after the completion of the Offering or from the Underwriters in the Offering;
- (xi) pursuant to a bona fide third party tender offer, merger, consolidation or other similar transaction made to all holders of Common Stock involving a "change of control" (as defined below) of the Company; provided that in the event that the tender offer, merger, consolidation or other such transaction is not completed, the shares of Common Stock owned by the undersigned shall remain subject to the terms of this agreement. For purposes of this clause, "change of control" shall mean the consummation of any bona fide third party tender offer, merger, consolidation or other similar transaction the result of which is that any "person" (as defined in Section 13(d)(3) of the Exchange Act), or group of persons, other than the Company, becomes the beneficial owner (as defined in Rules 13d-3 and 13d-5 of the Exchange Act) of 50% of total voting power of the voting stock of the Company (or the surviving entity);
- (xii) to the Company or its affiliates upon death or disability of the undersigned;
- (xiii) pursuant to any transfer, sale or conversion of Preferred Stock in connection with, and as contemplated by, the Preferred Stock Offering and the Preferred Stock Underwriting Agreement, including the sale of the Preferred Stock to the Underwriters pursuant to the Preferred Stock Underwriting Agreement and any conversion of Preferred Stock into Conversion Stock in accordance with its terms; provided that any such Preferred Stock or Conversion Stock received during the Lock-Up Period shall remain subject to the terms of this Lock-Up Agreement; and
- (xiv) with the prior written consent of the Representative on behalf of the Underwriters.

In addition, the aforementioned restrictions shall not apply to (x) the establishment or amendment of any contract, instruction or plan (a "Plan") that satisfies all of the requirements of Rule 10b5-1 under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), provided that no sales of the undersigned's shares of Common Stock shall be made pursuant to such a Plan prior to the expiration of this Lock-Up Period and to the extent a public announcement or filing under the Exchange Act, if any, is required of or voluntarily made by or on behalf of the undersigned, the Company or any other person regarding the establishment of such plan or transactions thereunder or contemplated thereby, such announcement or filing shall include a statement to the effect that no transfer of shares of Common Stock may be made under such plan during the Lock-Up Period; and (y) sales pursuant to any Plan not previously amended or otherwise revised during the Lock-Up Period that satisfies all of the requirements of Rule 10b5-1 under the Exchange Act where such Plan was in effect prior to the commencement of the Lock-Up Period.

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For purposes of this Lock-Up Agreement, “immediate family” shall mean any relationship by blood, marriage or adoption, not more remote than first cousin. The undersigned now has, and, except as contemplated by clause (i) through (xiv) above, for the duration of this Lock-Up Agreement will have, good and marketable title to the undersigned’s shares of Common Stock, free and clear of all liens, encumbrances, and claims whatsoever, except those provided by the equity plan pursuant to which such shares were issued to the undersigned. The undersigned also agrees and consents to the entry of stop transfer instructions with the Company’s transfer agent and registrar against the transfer of the undersigned’s shares of Common Stock except in compliance with the foregoing restrictions.

The undersigned acknowledges and agrees that none of the Underwriters has made any recommendation or provided any investment or other advice to the undersigned with respect to this Lock-Up Agreement or the subject matter hereof, and the undersigned has consulted their own legal, accounting, financial, regulatory, tax and other advisors with respect to this Lock-Up Agreement and the subject matter hereof to the extent the undersigned has deemed appropriate.

The undersigned understands that the Company and the Underwriters are relying upon this Lock-Up Agreement in proceeding toward consummation of the Offering. The undersigned further understands that this Lock-Up Agreement is irrevocable and shall be binding upon the undersigned’s heirs, legal representatives, successors, and assigns.

This Lock-Up Agreement shall terminate automatically upon the earliest to occur, if applicable, of (a) the date the Company has determined not to proceed with the Offering and the Company has provided written notice, prior to the execution of the Underwriting Agreement, of such decision to the Underwriters, (b) the termination of the Underwriting Agreement (other than the provisions thereof which survive termination) prior to payment for and delivery of the Common Stock to be sold thereunder or (c) October 13, 2021 if, and only if, the Underwriting Agreement has not been executed by such date.

*[Signature Page on following page]*

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Very truly yours,

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[•]

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Authorized Signature

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Title

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**RBC Bearings Incorporated**  
**Certificate of Designations**  
**5.00% Series A Mandatory Convertible Preferred Stock**  
**September 24, 2021**

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## Certificate of Designations

### 5.00% Series A Mandatory Convertible Preferred Stock

On September 21, 2021, the Board of Directors of RBC Bearings Incorporated, a Delaware corporation (the “**Company**”), adopted the following resolution designating and creating, out of the authorized and unissued shares of preferred stock of the Company, 4,600,000 authorized shares of a series of stock of the Company titled the “5.00% Series A Mandatory Convertible Preferred Stock”:

**RESOLVED** that, pursuant to the Certificate of Incorporation, the Bylaws and applicable law, a series of stock of the Company titled the “5.00% Series A Mandatory Convertible Preferred Stock,” and having a par value of \$0.01 per share and an initial number of authorized shares equal to 4,600,000, is hereby designated and created out of the authorized and unissued shares of preferred stock of the Company, which series has the rights, preferences, voting powers and other provisions set forth below:

Section 1. DEFINITIONS.

“**Acquisition**” means the acquisition, by the Company, of the Dodge Mechanical Power Transmission Business of ABB Asea Brown Boveri Ltd pursuant to the Acquisition Agreement.

“**Acquisition Agreement**” means that certain Stock and Asset Purchase Agreement, dated as of July 24, 2021, between the Company and ABB Asea Brown Boveri Ltd.

An “**Acquisition Non-Occurrence Event**” will be deemed to occur on the first date when either (a) the Acquisition Agreement is terminated in accordance with its terms; or (b) the Board of Directors determines, in its reasonable judgment, that the closing of the Acquisition will not occur; *provided, however*, that if neither of the events set forth in **clause (a)** or **(b)** has occurred by the Close of Business on January 26, 2022, but the Acquisition has not closed as of such time, then an Acquisition Non-Occurrence Event will be deemed to occur on January 26, 2022.

“**Acquisition Non-Occurrence Redemption Date**” means the date fixed, pursuant to **Section 7(c)**, for the settlement of the repurchase of the Mandatory Convertible Preferred Stock by the Company pursuant to a Redemption.

“**Affiliate**” has the meaning set forth in Rule 144 under the Securities Act as in effect on the Initial Issue Date.

“**Applicable Conversion Rate**” has the following meaning with respect to the conversion of any share of Mandatory Convertible Preferred Stock:

- (a) if such conversion is a Mandatory Conversion, the Applicable Conversion Rate determined pursuant to **Section 9(d)(ii)**;
- (b) if such conversion is a Make-Whole Fundamental Change Conversion, the Applicable Conversion Rate determined pursuant to **Section 9(e)(iii)(2)**; and

(c) if such conversion is an Early Conversion that is not a Make-Whole Fundamental Change Conversion, the Applicable Conversion Rate determined pursuant to **Section 9(e)(iii)(1)**.

“**Board of Directors**” means the Company’s board of directors or a committee of such board duly authorized to act on behalf of such board.

“**Boundary Conversion Prices**” mean the Minimum Conversion Price and the Maximum Conversion Price.

“**Boundary Conversion Rates**” mean the Minimum Conversion Rate and the Maximum Conversion Rate.

“**Business Day**” means any day other than a Saturday, a Sunday or any day on which the Federal Reserve Bank of New York is authorized or required by law or executive order to close or be closed.

“**Bylaws**” means the Company’s amended and restated bylaws, as the same may be further amended, supplemented or restated.

“**Capital Stock**” of any Person means any and all shares of, interests in, rights to purchase, warrants or options for, participations in, or other equivalents of, in each case however designated, the equity of such Person, but excluding any debt securities convertible into such equity.

“**Certificate of Designations**” means this Certificate of Designations, as amended or supplemented from time to time.

“**Certificate of Incorporation**” means the Company’s amended and restated Certificate of Incorporation, as the same may be further amended, supplemented or restated.

“**Close of Business**” means 5:00 p.m., New York City time.

“**Common Stock**” means the common stock, \$0.01 par value per share, of the Company, subject to **Section 9(h)**.

“**Common Stock Change Event**” has the meaning set forth in **Section 9(h)(i)**.

“**Company**” means RBC Bearings Incorporated, a Delaware corporation.

“**Conversion Agent**” has the meaning set forth in **Section 3(f)(i)**.

“**Conversion Consideration**” means, with respect to the conversion of any Mandatory Convertible Preferred Stock, the type and amount of consideration payable to settle such conversion, determined in accordance with **Section 9**.

“**Conversion Date**” has the following meaning with respect to the conversion of any share of Mandatory Convertible Preferred Stock: (a) if such conversion is a Mandatory Conversion, the Mandatory Conversion Date; and (b) in all other cases, the Early Conversion Date for such conversion.

“**Daily VWAP**” means, for any VWAP Trading Day, the per share volume-weighted average price of the Common Stock as displayed under the heading “Bloomberg VWAP” on Bloomberg page “ROLL <EQUITY> AQR” (or, if such page is not available, its equivalent successor page) in respect of the period from the scheduled open of trading until the scheduled close of trading of the primary trading session on such VWAP Trading Day (or, if such volume-weighted average price is unavailable, the market value of one (1) share of Common Stock on such VWAP Trading Day, determined, using a volume-weighted average price method, by a nationally recognized independent investment banking firm the Company selects, which may include any of the Underwriters). The Daily VWAP will be determined without regard to after-hours trading or any other trading outside of the regular trading session.

“**Depository**” means The Depository Trust Company or its successor, or any successor depository for the applicable shares of Mandatory Convertible Preferred Stock.

“**Depository Participant**” means any member of, or participant in, the Depository.

“**Depository Procedures**” means, with respect to any conversion, transfer, exchange or other transaction involving a Global Certificate representing any Mandatory Convertible Preferred Stock, or any beneficial interest in such certificate, the rules and procedures of the Depository applicable to such conversion, transfer, exchange or transaction.

“**Director Qualification Requirement**” has the meaning set forth in **Section 8(a)(i)**.

“**Dividend Junior Stock**” means any class or series of the Company’s stock whose terms do not expressly provide that such class or series will rank senior to, or equally with, the Mandatory Convertible Preferred Stock with respect to the payment of dividends (without regard to whether or not dividends accumulate cumulatively). Dividend Junior Stock includes the Common Stock. For the avoidance of doubt, Dividend Junior Stock will not include any securities of the Company’s Subsidiaries.

“**Dividend Make-Whole Stock Price**” has the following meaning with respect to the conversion of any share of Mandatory Convertible Preferred Stock: (a) if such conversion is a Mandatory Conversion, ninety seven percent (97%) of the Mandatory Conversion Stock Price; (b) if such conversion is a Make-Whole Fundamental Change Conversion, ninety seven percent (97%) of the Make-Whole Fundamental Change Stock Price for the relevant Make-Whole Fundamental Change; and (c) if such conversion is an Early Conversion that is not a Make-Whole Fundamental Change Conversion, the average of the Daily VWAPs per share of Common Stock for each of the five (5) consecutive VWAP Trading Days ending on, and including, the VWAP Trading Day immediately before the Conversion Date for such conversion.

A “**Dividend Non-Payment Event**” will be deemed to occur when accumulated dividends on the outstanding Mandatory Convertible Preferred Stock have not been declared and paid in an aggregate amount corresponding to six (6) or more Dividend Periods, whether or not consecutive. A Dividend Non-Payment Event that has occurred will be deemed to continue until such time when all accumulated and unpaid dividends on the outstanding Mandatory Convertible Preferred Stock have been paid in full, at which time such Dividend Non-Payment Event will be deemed to be cured and cease to be continuing. For purposes of this definition, a dividend on the Mandatory Convertible Preferred Stock will be deemed to have been paid if such dividend is declared and consideration in kind and amount that is sufficient, in accordance with this Certificate of Designations, to pay such dividend is set aside for the benefit of the Holders entitled thereto.

“**Dividend Parity Stock**” means any class or series of the Company’s stock (other than the Mandatory Convertible Preferred Stock) whose terms expressly provide that such class or series will rank equally with the Mandatory Convertible Preferred Stock with respect to the payment of dividends (without regard to whether or not dividends accumulate cumulatively). For the avoidance of doubt, Dividend Parity Stock will not include any securities of the Company’s Subsidiaries.

“**Dividend Payment Date**” means, with respect to any share of Mandatory Convertible Preferred Stock, each January 15, April 15, July 15 and October 15 of each year, beginning on January 15, 2022 (or beginning on such other date specified in the certificate representing such share) and ending on, and including, October 15, 2024.

“**Dividend Period**” means each period from, and including, a Dividend Payment Date (or, in the case of the first Dividend Period, from, and including, the Initial Issue Date) to, but excluding, the next Dividend Payment Date.

“**Dividend Senior Stock**” means any class or series of the Company’s stock whose terms expressly provide that such class or series will rank senior to the Mandatory Convertible Preferred Stock with respect to the payment of dividends (without regard to whether or not dividends accumulate cumulatively). For the avoidance of doubt, Dividend Senior Stock will not include any securities of the Company’s Subsidiaries.

“**Dividend Stock Price**” means, with respect to any declared dividend on the Mandatory Convertible Preferred Stock, ninety seven percent (97%) of the average of the Daily VWAPs per share of Common Stock for each VWAP Trading Day during the related Dividend Stock Price Observation Period.

“**Dividend Stock Price Observation Period**” means, with respect to any declared dividend on the Mandatory Convertible Preferred Stock, the five (5) consecutive VWAP Trading Days beginning on, and including, the sixth (6th) Scheduled Trading Day immediately before the Dividend Payment Date for such dividend.

“**Early Conversion**” means the conversion of any Mandatory Convertible Preferred Stock other than a Mandatory Conversion.

“**Early Conversion Date**” means, with respect to the Early Conversion (including a Make-Whole Fundamental Change Conversion) of any Mandatory Convertible Preferred Stock, the first Business Day on which the requirements of **Section 9(b)(ii)** for such conversion are satisfied.

“**Ex-Dividend Date**” means, with respect to an issuance, dividend or distribution on the Common Stock, the first date on which shares of Common Stock trade on the applicable exchange or in the applicable market, regular way, without the right to receive such issuance, dividend or distribution (including pursuant to due bills or similar arrangements required by the relevant stock exchange). For the avoidance of doubt, any alternative trading convention on the applicable exchange or market in respect of the Common Stock under a separate ticker symbol or CUSIP number will not be considered “regular way” for this purpose.

“**Exchange Act**” means the U.S. Securities Exchange Act of 1934, as amended.

“**Expiration Date**” has the meaning set forth in **Section 9(f)(i)(5)**.

“**Expiration Time**” has the meaning set forth in **Section 9(f)(i)(5)**.

“**Floor Price**” means, as of any time, an amount (rounded to the nearest cent) equal to thirty five percent (35%) of the Minimum Conversion Price in effect at such time. Each reference in this Certificate of Designations or the Mandatory Convertible Preferred Stock to the Floor Price as of a particular date without setting forth a particular time on such date will be deemed to be a reference to the Floor Price immediately before the Close of Business on such date.

“**Future Dividend Present Value Amount**” means, with respect to the Make-Whole Fundamental Change Conversion of any share of Mandatory Convertible Preferred Stock, an amount equal to the present value, as of the effective date of the related Make-Whole Fundamental Change, of all regularly scheduled dividend payments on such share on each Dividend Payment Date occurring after such effective date and on or before October 15, 2024, such present value to be computed using a discount rate equal to the Stated Dividend Rate per annum; *provided, however*, that, for purposes of this definition, the amount of dividends payable on the Dividend Payment Date immediately after such effective date will be deemed to be the following amount: (a) if such effective date is after a Regular Record Date and on or before the next Dividend Payment Date, and, as of the Close of Business on such effective date, the Company has declared part or all of the dividend scheduled to be paid on the Mandatory Convertible Preferred Stock on such Dividend Payment Date, the excess, if any, of (x) the full amount of such dividend scheduled to be paid on such share on such Dividend Payment Date (assuming the same were declared in full) over (y) the amount of such dividend actually so declared on such share (and, for the avoidance of doubt, the Holder of such share as of the Close of Business on such Regular Record Date will be entitled, notwithstanding such conversion, to receive such declared dividend on or, at the Company’s election, before such Dividend Payment Date, as provided in **Section 5(a)(i)** or **Section 5(c)**, as applicable); and (b) in all other cases, the full amount of dividends scheduled to be paid on such share on the Dividend Payment Date immediately after such effective date, less an amount equal to dividends on such share that have accumulated from, and including, the Dividend Payment Date immediately before such effective date to, but excluding, such effective date.

“**Global Certificate**” means any certificate representing any share(s) of Mandatory Convertible Preferred Stock, which certificate is substantially in the form set forth in **Exhibit A**, registered in the name of the Depositary or its nominee, duly executed by the Company and countersigned by the Transfer Agent, and deposited with the Transfer Agent, as custodian for the Depositary.

“**Global Certificate Legend**” means a legend substantially in the form set forth in **Exhibit B**.

“**Holder**” means a person in whose name any Mandatory Convertible Preferred Stock is registered on the Registrar’s books.

“**Initial Issue Date**” means September 24, 2021.

“**Junior Stock**” means any Dividend Junior Stock or Liquidation Junior Stock.

“**Last Reported Sale Price**” of the Common Stock for any Trading Day means the closing sale price per share (or, if no closing sale price is reported, the average of the last bid price and the last ask price per share or, if more than one in either case, the average of the average last bid prices and the average last ask prices per share) of the Common Stock on such Trading Day as reported in composite transactions for the principal U.S. national or regional securities exchange on which the Common Stock is then listed. If the Common Stock is not listed on a U.S. national or regional securities exchange on such Trading Day, then the Last Reported Sale Price will be the last quoted bid price per share of Common Stock on such Trading Day in the over-the-counter market as reported by OTC Markets Group Inc. or a similar organization. If the Common Stock is not so quoted on such Trading Day, then the Last Reported Sale Price will be the average of the mid-point of the last bid price and the last ask price per share of Common Stock on such Trading Day from each of at least three nationally recognized independent investment banking firms the Company selects, which may include any of the Underwriters.

“**Liquidation Junior Stock**” means any class or series of the Company’s stock whose terms do not expressly provide that such class or series will rank senior to, or equally with, the Mandatory Convertible Preferred Stock with respect to the distribution of assets upon the Company’s liquidation, dissolution or winding up. Liquidation Junior Stock includes the Common Stock. For the avoidance of doubt, Liquidation Junior Stock will not include any securities of the Company’s Subsidiaries.

“**Liquidation Parity Stock**” means any class or series of the Company’s stock (other than the Mandatory Convertible Preferred Stock) whose terms expressly provide that such class or series will rank equally with the Mandatory Convertible Preferred Stock with respect to the distribution of assets upon the Company’s liquidation, dissolution or winding up. For the avoidance of doubt, Liquidation Parity Stock will not include any securities of the Company’s Subsidiaries.



“**Liquidation Preference**” means, with respect to the Mandatory Convertible Preferred Stock, an amount equal to one hundred dollars (\$100) per share of Mandatory Convertible Preferred Stock.

“**Liquidation Senior Stock**” means any class or series of the Company’s stock whose terms expressly provide that such class or series will rank senior to the Mandatory Convertible Preferred Stock with respect to the distribution of assets upon the Company’s liquidation, dissolution or winding up. For the avoidance of doubt, Liquidation Senior Stock will not include any securities of the Company’s Subsidiaries.

“**Make-Whole Fundamental Change**” means any of the following events:

(a) a “person” or “group” (within the meaning of Section 13(d)(3) of the Exchange Act), other than the Company, its Wholly Owned Subsidiaries or the Company’s or its Wholly Owned Subsidiaries’ respective employee benefit plans, files a Schedule TO or any other schedule, form or report under the Exchange Act disclosing that such person or group has become the direct or indirect “beneficial owner” (as defined below) of shares of the Company’s common equity representing more than fifty percent (50%) of the voting power of all of the Company’s then-outstanding common equity;

(b) the consummation of: (i) any sale, lease or other transfer, in one transaction or a series of transactions, of all or substantially all of the assets of the Company and its Subsidiaries, taken as a whole, to any Person, other than one of the Company’s Wholly Owned Subsidiaries; or (ii) any transaction or series of related transactions in connection with which (whether by means of merger, consolidation, share exchange, combination, reclassification, recapitalization, acquisition, liquidation or otherwise) all of the Common Stock is exchanged for, converted into, acquired for, or constitutes solely the right to receive, other securities, cash or other property (other than solely as a result of a subdivision or combination of the Common Stock); or

(c) the Common Stock ceases to be listed on any of the New York Stock Exchange, The Nasdaq Global Market or The Nasdaq Global Select Market (or any of their respective successors);

*provided, however*, that a transaction or event or series of transactions or events described in **clause (a)** or **(b)** above will not constitute a Make-Whole Fundamental Change if at least ninety percent (90%) of the consideration received or to be received by the holders of Common Stock (excluding cash payments for fractional shares or pursuant to dissenters rights), in connection with such transaction or event or series of transactions or events, as applicable, consists of shares of common stock listed on any of the New York Stock Exchange, The Nasdaq Global Market or The Nasdaq Global Select Market (or any of their respective successors), or that will be so listed when issued or exchanged in connection with such transaction or event or series of transactions or events, as applicable, and such transaction or event or series of transactions or events, as applicable, constitutes a Common Stock Change Event whose Reference Property consists of such consideration.

For the purposes of this definition, whether a Person is a “beneficial owner” and whether shares are “beneficially owned” will be determined in accordance with Rule 13d-3 under the Exchange Act.

“**Make-Whole Fundamental Change Conversion**” has the meaning set forth in **Section 9(e)(iii)(2)**.

“**Make-Whole Fundamental Change Conversion Period**” means, with respect to a Make-Whole Fundamental Change, the period from, and including, the effective date of such Make-Whole Fundamental Change to, and including, the 20th calendar day after such effective date (or, if such calendar day is not a Business Day, the next Business Day); *provided, however*, that the last day of such Make-Whole Fundamental Change Conversion Period is subject to extension pursuant to the penultimate sentence of **Section 9(e)(iv)(3)**.

“**Make-Whole Fundamental Change Conversion Rate**” has the meaning set forth in **Section 9(e)(iv)(1)(A)**.

“**Make-Whole Fundamental Change Notice**” has the meaning set forth in **Section 9(e)(iv)(3)**.

“**Make-Whole Fundamental Change Stock Price**” has the following meaning for any Make-Whole Fundamental Change: (a) if the holders of Common Stock receive only cash in consideration for their shares of Common Stock in such Make-Whole Fundamental Change and such Make-Whole Fundamental Change is pursuant to **clause (b)** of the definition of such term, then the Make-Whole Fundamental Change Stock Price is the amount of cash paid per share of Common Stock in such Make-Whole Fundamental Change; and (b) in all other cases, the Make-Whole Fundamental Change Stock Price is the average of the Last Reported Sale Prices per share of Common Stock for the five (5) consecutive Trading Days ending on, and including, the Trading Day immediately before the effective date of such Make-Whole Fundamental Change.

“**Mandatory Conversion**” has the meaning set forth in **Section 9(d)(i)**.

“**Mandatory Conversion Date**” means the last VWAP Trading Day of the Mandatory Conversion Observation Period.

“**Mandatory Conversion Observation Period**” means the twenty (20) consecutive VWAP Trading Days beginning on, and including, the twenty first (21st) Scheduled Trading Day immediately before October 15, 2024.

“**Mandatory Conversion Rate**” has the following meaning with respect to any Mandatory Conversion:

(a) if the Mandatory Conversion Stock Price is equal to or greater than the Maximum Conversion Price as of the Mandatory Conversion Date, then the Mandatory Conversion Rate is the Minimum Conversion Rate as of the Mandatory Conversion Date;

(b) if the Mandatory Conversion Stock Price is less than the Maximum Conversion Price as of the Mandatory Conversion Date, but greater than the Minimum Conversion Price as of the Mandatory Conversion Date, then the Mandatory Conversion Rate is an amount (rounded to the nearest fourth (4th) decimal place) equal to (x) the liquidation preference per share of Mandatory Convertible Preferred Stock, *divided by* (y) the Mandatory Conversion Stock Price; and

(c) if the Mandatory Conversion Stock Price is equal to or less than the Minimum Conversion Price as of the Mandatory Conversion Date, then the Mandatory Conversion Rate is the Maximum Conversion Rate as of the Mandatory Conversion Date.

“**Mandatory Conversion Stock Price**” means the average of the Daily VWAPs per share of Common Stock for each VWAP Trading Day in the Mandatory Conversion Observation Period.

“**Mandatory Convertible Preferred Stock**” has the meaning set forth in **Section 3(a)**.

“**Market Disruption Event**” means, with respect to any date, the occurrence or existence, during the one-half hour period ending at the scheduled close of trading on such date on the principal U.S. national or regional securities exchange or other market on which the Common Stock is listed for trading or trades, of any material suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the relevant exchange or otherwise) in the Common Stock or in any options contracts or futures contracts relating to the Common Stock.

“**Maximum Conversion Price**” means, as of any time, an amount (rounded to the nearest cent) equal to (a) the Liquidation Preference per share of Mandatory Convertible Preferred Stock, *divided by* (b) the Minimum Conversion Rate in effect at such time. Each reference in this Certificate of Designations or the Mandatory Convertible Preferred Stock to the Maximum Conversion Price as of a particular date without setting forth a particular time on such date will be deemed to be a reference to the Maximum Conversion Price immediately before the Close of Business on such date.

“**Maximum Conversion Rate**” initially means 0.5405 shares of Common Stock per share of Mandatory Convertible Preferred Stock; *provided, however*, that the Maximum Conversion Rate is subject to adjustment pursuant to **Sections 9(f)** and **9(g)**. Each reference in this Certificate of Designations or the Mandatory Convertible Preferred Stock to the Maximum Conversion Rate as of a particular date without setting forth a particular time on such date will be deemed to be a reference to the Maximum Conversion Rate immediately before the Close of Business on such date.

“**Minimum Conversion Price**” means, as of any time, an amount (rounded to the nearest cent) equal to (a) the Liquidation Preference per share of Mandatory Convertible Preferred Stock, *divided by* (b) the Maximum Conversion Rate in effect at such time. Each reference in this Certificate of Designations or the Mandatory Convertible Preferred Stock to the Minimum Conversion Price as of a particular date without setting forth a particular time on such date will be deemed to be a reference to the Minimum Conversion Price immediately before the Close of Business on such date.

“**Minimum Conversion Rate**” initially means 0.4413 shares of Common Stock per share of Mandatory Convertible Preferred Stock; *provided, however*, that the Minimum Conversion Rate is subject to adjustment pursuant to **Sections 9(f)** and **9(g)**. Each reference in this Certificate of Designations or the Mandatory Convertible Preferred Stock to the Minimum Conversion Rate as of a particular date without setting forth a particular time on such date will be deemed to be a reference to the Minimum Conversion Rate immediately before the Close of Business on such date.

“**Number of Incremental Diluted Shares**” means the increase in the number of diluted shares of the applicable class or series of Junior Stock (determined in accordance with generally accepted accounting principles in the United States, as the same is in effect on the Initial Issue Date, and assuming net income is positive) that would result from the grant, vesting or exercise of equity-based compensation to directors, employees, contractors and agents (subject to proportionate adjustment for stock dividends, stock splits or stock combinations with respect to such class or series of Junior Stock).

“**Officer**” means the Chairman of the Board of Directors, the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Financial Officer, the Treasurer, any Assistant Treasurer, the Controller, the Secretary or any Vice-President of the Company.

“**Open of Business**” means 9:00 a.m., New York City time.

“**Paying Agent**” has the meaning set forth in **Section 3(f)(i)**.

“**Person**” or “**person**” means any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization or government or other agency or political subdivision thereof. Any division or series of a limited liability company, limited partnership or trust will constitute a separate “person” under this Certificate of Designations.

“**Physical Certificate**” means any certificate (other than a Global Certificate) representing any share(s) of Mandatory Convertible Preferred Stock, which certificate is substantially in the form set forth in **Exhibit A**, registered in the name of the Holder of such share(s) and duly executed by the Company and countersigned by the Transfer Agent.

“**Preferred Stock Director**” has the meaning set forth in **Section 8(a)(i)**.

“**Record Date**” means, with respect to any dividend or distribution on, or issuance to holders of, Common Stock, the date fixed (whether by law, contract or the Board of Directors or otherwise) to determine the holders of Common Stock that are entitled to such dividend, distribution or issuance.

“**Redemption**” means the repurchase of any Mandatory Convertible Preferred Stock by the Company pursuant to **Section 7**.

“**Redemption Average VWAP**” means the average of the Daily VWAPs per share of Common Stock for each VWAP Trading Day during the Redemption Observation Period.

“**Redemption Dividend Value Dollar Amount**” means, with respect to any share of Mandatory Convertible Preferred Stock that is called for Redemption, the sum of the Unpaid Accumulated Dividend Amount and the Future Dividend Present Value Amount that would apply to such share assuming that (a) a Make-Whole Fundamental Change occurs whose effective date is the Redemption Notice Date for such Redemption; and (b) such share is converted with a Conversion Date occurring during the related Make-Whole Fundamental Change Conversion Period.

“**Redemption Notice**” has the meaning set forth in **Section 7(d)**.

“**Redemption Notice Date**” means, with respect to a Redemption of the Mandatory Convertible Preferred Stock, the date on which the Company sends the related Redemption Notice pursuant to **Section 7(d)**.

“**Redemption Observation Period**” means, with respect to a Redemption of the Mandatory Convertible Preferred Stock, the twenty (20) consecutive VWAP Trading Days beginning on, and including, the second (2nd) VWAP Trading Day immediately after the Redemption Notice Date for such Redemption.

“**Redemption Option Value Share Amount**” means, with respect to any share of Mandatory Convertible Preferred Stock that is called for Redemption, the Make-Whole Fundamental Change Conversion Rate that would apply to such share assuming that (a) a Make-Whole Fundamental Change occurs whose effective date is the Redemption Notice Date for such Redemption and whose Make-Whole Fundamental Change Stock Price is equal to the Redemption Stock Price for such Redemption; and (b) such share is converted with a Conversion Date that occurs on the Scheduled Trading Day before the related Acquisition Non-Occurrence Redemption Date and is deemed to be during the related Make-Whole Fundamental Change Conversion Period.

“**Redemption Price**” means the consideration payable by the Company to repurchase any Mandatory Convertible Preferred Stock upon its Redemption, calculated pursuant to **Section 7(b)**.

“**Redemption Stock Price**” means, with respect to a Redemption of the Mandatory Convertible Preferred Stock, the average of the Last Reported Sale Prices per share of Common Stock for the five (5) consecutive Trading Days ending on, and including, the Trading Day immediately before the related Redemption Notice Date.

“**Reference Property**” has the meaning set forth in **Section 9(h)(i)**.

“**Reference Property Unit**” has the meaning set forth in **Section 9(h)(i)**.

“**Register**” has the meaning set forth in **Section 3(f)(ii)**.

“**Registrar**” has the meaning set forth in **Section 3(f)(i)**.

“**Regular Record Date**” has the following meaning: (a) January 1, in the case of a Dividend Payment Date occurring on January 15; (b) April 1, in the case of a Dividend Payment Date occurring on April 15; (c) July 1, in the case of a Dividend Payment Date occurring on July 15; and (d) October 1, in the case of a Dividend Payment Date occurring on October 15.

“**Scheduled Trading Day**” means any day that is scheduled to be a Trading Day on the principal U.S. national or regional securities exchange on which the Common Stock is then listed or, if the Common Stock is not then listed on a U.S. national or regional securities exchange, on the principal other market on which the Common Stock is then traded. If the Common Stock is not so listed or traded, then “Scheduled Trading Day” means a Business Day.

“**SEC**” means the U.S. Securities and Exchange Commission.

“**Share Agent**” means the Transfer Agent or any Registrar, Paying Agent or Conversion Agent.

“**Spin-Off**” has the meaning set forth in **Section 9(f)(i)(3)(B)**.

“**Spin-Off Valuation Period**” has the meaning set forth in **Section 9(f)(i)(3)(B)**.

“**Stated Dividend Rate**” means five percent (5.00%) per annum.

“**Subsidiary**” means, with respect to any Person, (a) any corporation, association or other business entity (other than a partnership or limited liability company) of which more than 50% of the total voting power of the Capital Stock entitled (without regard to the occurrence of any contingency, but after giving effect to any voting agreement or stockholders’ agreement that effectively transfers voting power) to vote in the election of directors, managers or trustees, as applicable, of such corporation, association or other business entity is owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of such Person; and (b) any partnership or limited liability company where (x) more than fifty percent (50%) of the capital accounts, distribution rights, equity and voting interests, or of the general and limited partnership interests, as applicable, of such partnership or limited liability company are owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of such Person, whether in the form of membership, general, special or limited partnership or limited liability company interests or otherwise and (y) such Person or any one or more of the other Subsidiaries of such Person is a controlling general partner of, or otherwise controls, such partnership or limited liability company.

“**Successor Person**” has the meaning set forth in **Section 9(h)(iii)**.

“**Tender/Exchange Offer Valuation Period**” has the meaning set forth in **Section 9(f)(i)(5)**.

“**Trading Day**” means any day on which (a) trading in the Common Stock generally occurs on the principal U.S. national or regional securities exchange on which the Common Stock is then listed or, if the Common Stock is not then listed on a U.S. national or regional securities exchange, on the principal other market on which the Common Stock is then traded; and (b) there is no Market Disruption Event. If the Common Stock is not so listed or traded, then “Trading Day” means a Business Day.

“**Transfer Agent**” means Computershare Trust Company, N.A. or its successor as provided in **Section 3(f)(iii)**.

“**Underwriters**” means Goldman Sachs & Co. LLC, Wells Fargo Securities, LLC, BofA Securities, Inc., Citigroup Global Markets Inc., Truist Securities, Inc., Citizens Capital Markets, Inc., Fifth Third Securities, Inc., KeyBanc Capital Markets Inc., Regions Securities LLC, Morgan Stanley & Co. LLC, Academy Securities, Inc. and William Blair & Company, L.L.C.

“**Unpaid Accumulated Dividend Amount**” has the following meaning with respect to the conversion of any share of Mandatory Convertible Preferred Stock:

(a) if such conversion is a Mandatory Conversion, the aggregate accumulated dividends, if any, on such share that have not been declared, at or before the Close of Business on October 1, 2024, in respect of all Dividend Periods ending on or before October 15, 2024;

(b) if such conversion is a Make-Whole Fundamental Change Conversion, the sum (without duplication) of (1) the aggregate accumulated dividends, if any, on such share that have not been declared, at or before the Close of Business on the effective date of the related Make-Whole Fundamental Change, in respect of all Dividend Periods ending on a Dividend Payment Date that is before such effective date; and (2) the amount of accumulated and unpaid dividends, if any, on such share for the period from, and including, the Dividend Payment Date immediately before such effective date to, but excluding, such effective date; *provided, however*, that if such effective date is after a Regular Record Date and on or before the next Dividend Payment Date, and, as of the Close of Business on such effective date, the Company has declared the dividend due on the Mandatory Convertible Preferred Stock on such Dividend Payment Date, then the Unpaid Accumulated Dividend Amount will not include any portion of such declared dividend (and, for the avoidance of doubt, the Holder of such share as of the Close of Business on such Regular Record Date will be entitled, notwithstanding such conversion, to receive such declared dividend on or, at the Company’s election, before such Dividend Payment Date, as provided in **Section 5(a)(i)** or **Section 5(c)**, as applicable); and

(c) if such conversion is an Early Conversion that is not a Make-Whole Fundamental Change Conversion, the aggregate accumulated dividends, if any, on such share that have not been declared, at or before the Close of Business on the Conversion Date for such conversion, in respect of all Dividend Periods ending on a Dividend Payment Date that is before such Conversion Date.

“**Voting Parity Stock**” means, with respect to any matter as to which Holders are entitled to vote pursuant to **Section 8(a)** or **Section 8(b)**, each class or series of outstanding Dividend Parity Stock or Liquidation Parity Stock, if any, upon which similar voting rights are conferred and are exercisable with respect to such matter. For the avoidance of doubt, Voting Parity Stock will not include any securities of the Company’s Subsidiaries.

“**VWAP Market Disruption Event**” means, with respect to any date, (a) the failure by the principal U.S. national or regional securities exchange on which the Common Stock is then listed, or, if the Common Stock is not then listed on a U.S. national or regional securities exchange, the principal other market on which the Common Stock is then traded, to open for trading during its regular trading session on such date; or (b) the occurrence or existence, for more than one half hour period in the aggregate, of any suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the relevant exchange or otherwise) in the Common Stock or in any options contracts or futures contracts relating to the Common Stock, and such suspension or limitation occurs or exists at any time before 1:00 p.m., New York City time, on such date.

“**VWAP Trading Day**” means a day on which (a) there is no VWAP Market Disruption Event; and (b) trading in the Common Stock generally occurs on the principal U.S. national or regional securities exchange on which the Common Stock is then listed or, if the Common Stock is not then listed on a U.S. national or regional securities exchange, on the principal other market on which the Common Stock is then traded. If the Common Stock is not so listed or traded, then “VWAP Trading Day” means a Business Day.

“**Wholly Owned Subsidiary**” of a Person means any Subsidiary of such Person all of the outstanding Capital Stock or other ownership interests of which (other than directors’ qualifying shares) are owned by such Person or one or more Wholly Owned Subsidiaries of such Person.

Section 2. RULES OF CONSTRUCTION. FOR PURPOSES OF THIS CERTIFICATE OF DESIGNATIONS:

- (a) “or” is not exclusive;
- (b) “including” means “including without limitation”;
- (c) “will” expresses a command;
- (d) the “average” of a set of numerical values refers to the arithmetic average of such numerical values;
- (e) a merger involving, or a transfer of assets by, a limited liability company, limited partnership or trust will be deemed to include any division of or by, or an allocation of assets to a series of, such limited liability company, limited partnership or trust, or any unwinding of any such division or allocation;
- (f) words in the singular include the plural and in the plural include the singular, unless the context requires otherwise;



(g) “herein,” “hereof” and other words of similar import refer to this Certificate of Designations as a whole and not to any particular Section or other subdivision of this Certificate of Designations, unless the context requires otherwise;

(h) references to currency mean the lawful currency of the United States of America, unless the context requires otherwise; and

(i) the exhibits, schedules and other attachments to this Certificate of Designations are deemed to form part of this Certificate of Designations.

Section 3. THE MANDATORY CONVERTIBLE PREFERRED STOCK.

(a) *Designation; Par Value.* A series of stock of the Company titled the “5.00% Series A Mandatory Convertible Preferred Stock” (the “**Mandatory Convertible Preferred Stock**”) is hereby designated and created out of the authorized and unissued shares of preferred stock of the Company. The par value of the Mandatory Convertible Preferred Stock is \$0.01 per share.

(b) *Number of Authorized Shares.* The total authorized number of shares of Mandatory Convertible Preferred Stock is four million six hundred thousand (4,600,000); *provided, however* that, by resolution of the Board of Directors, the total number of authorized shares of Mandatory Convertible Preferred Stock may hereafter be reduced to a number that is not less than the number of shares of Mandatory Convertible Preferred Stock then outstanding.

(c) *Form, Dating and Denominations.*

(i) *Form and Date of Certificates Representing Mandatory Convertible Preferred Stock.* Each certificate representing any Mandatory Convertible Preferred Stock will (1) be substantially in the form set forth in **Exhibit A**; (2) bear the legends required by **Section 3(g)** and may bear notations, legends or endorsements required by law, stock exchange rule or usage or the Depositary; and (3) be dated as of the date it is countersigned by the Transfer Agent.

(ii) *Global Certificates; Physical Certificates.* Except as otherwise provided in the applicable resolutions of the Board of Directors providing for the original issuance of any Mandatory Convertible Preferred Stock, such Mandatory Convertible Preferred Stock will be issued initially in the form of one or more Global Certificates. Global Certificates may be exchanged for Physical Certificates, and Physical Certificates may be exchanged for Global Certificates, only as provided in **Section 3(h)**.

(iii) *No Bearer Certificates; Denominations.* The Mandatory Convertible Preferred Stock will be issued only in registered form and only in whole numbers of shares.

(iv) *Registration Numbers.* Each certificate representing any share(s) Mandatory Convertible Preferred Stock will bear a unique registration number that is not affixed to any other certificate representing any other outstanding share of Mandatory Convertible Preferred Stock.

(d) *Execution, Countersignature and Delivery.*

(i) *Due Execution by the Company.* At least two (2) duly authorized Officers will sign each certificate representing any Mandatory Convertible Preferred Stock on behalf of the Company by manual or facsimile signature. The validity of any Mandatory Convertible Preferred Stock will not be affected by the failure of any Officer whose signature is on any certificate representing such Mandatory Convertible Preferred Stock to hold, at the time such certificate is countersigned by the Transfer Agent, the same or any other office at the Company.

(ii) *Countersignature by Transfer Agent.* No Mandatory Convertible Preferred Stock will be valid until the certificate representing it is countersigned by the Transfer Agent. Each such certificate will be deemed to be duly countersigned only when an authorized signatory of the Transfer Agent (or a duly appointed agent thereof) manually signs the countersignature block set forth in such certificate.

(e) *Method of Payment; Delay When Payment Date is Not a Business Day.*

(i) *Method of Payment.*

(1) *Global Certificates.* The Company will pay (or cause the Paying Agent to pay) all declared cash dividends or other cash amounts due on any Mandatory Convertible Preferred Stock represented by a Global Certificate by wire transfer of immediately available funds or otherwise in accordance with the Depository Procedures.

(2) *Physical Certificates.* The Company will pay (or cause the Paying Agent to pay) all declared cash dividends or other cash amounts due on any Mandatory Convertible Preferred Stock represented by a Physical Certificate as follows:

(A) if the aggregate Liquidation Preference of the Mandatory Convertible Preferred Stock represented by such Physical Certificate is at least five million dollars (\$5,000,000) (or such lower amount as the Company may choose in its sole and absolute discretion) and the Holder of such Mandatory Convertible Preferred Stock entitled to such cash dividend or amount has delivered to the Paying Agent, no later than the time set forth in the next sentence, a written request to receive payment by wire transfer to an account of such Holder within the United States, by wire transfer of immediately available funds to such account; and

(B) in all other cases, by check mailed to the address of such Holder set forth in the Register.

To be timely, such written request must be delivered no later than the Close of Business on the following date: (x) with respect to the payment of any declared cash dividend due on a Dividend Payment Date for the Mandatory Convertible Preferred Stock, the immediately preceding Regular Record Date; and (y) with respect to any other payment, the date that is fifteen (15) calendar days immediately before the date such payment is due.

(ii) *Delay of Payment when Payment Date is Not a Business Day.* If the due date for a payment on any Mandatory Convertible Preferred Stock as provided in this Certificate of Designations is not a Business Day, then, notwithstanding anything to the contrary in this Certificate of Designations, such payment may be made on the immediately following Business Day and no interest, dividend or other amount will accrue or accumulate on such payment as a result of the related delay. Solely for purposes of the immediately preceding sentence, a day on which the applicable place of payment is authorized or required by law or executive order to close or be closed will be deemed not to be a “Business Day.”

(f) *Transfer Agent, Registrar, Paying Agent and Conversion Agent.*

(i) *Generally.* The Company will maintain (1) an office or agency in the continental United States where Mandatory Convertible Preferred Stock may be presented for registration of transfer or for exchange (the “**Registrar**”); (2) an office or agency in the continental United States where Mandatory Convertible Preferred Stock may be presented for payment (the “**Paying Agent**”); and (3) an office or agency in the continental United States where Mandatory Convertible Preferred Stock may be presented for conversion (the “**Conversion Agent**”). If the Company fails to maintain a Registrar, Paying Agent or Conversion Agent, then the Transfer Agent will act as such. For the avoidance of doubt, the Company or any of its Subsidiaries may act as Registrar, Paying Agent or Conversion Agent.

(ii) *Duties of the Registrar.* The Company will cause the Registrar to keep a record (the “**Register**”) of the names and addresses of the Holders, the number of shares of Mandatory Convertible Preferred Stock held by each Holder and the transfer, exchange, repurchase, Redemption and conversion of the Mandatory Convertible Preferred Stock. Absent manifest error, the entries in the Register will be conclusive and the Company and the Transfer Agent may treat each Person whose name is recorded as a Holder in the Register as a Holder for all purposes. The Register will be in written form or in any form capable of being converted into written form reasonably promptly.

(iii) *Co-Agents; Company’s Right to Appoint Successor Transfer Agent, Registrar, Paying Agent and Conversion Agent.* The Company may appoint one or more co-Registrars, co-Paying Agents and co-Conversion Agents, each of whom will be deemed to be a Registrar, Paying Agent or Conversion Agent, as applicable, under this Certificate of Designations. Subject to **Section 3(f)(i)**, the Company may at any time change or rescind the designation of any Transfer Agent or any Registrar, Paying Agent or Conversion Agent (including appointing itself or any of its Subsidiaries to act as a Registrar, Paying Agent or Conversion Agent) without notice to any Holder; *provided, however*, that the Company will not remove a Person acting as Transfer Agent under this Certificate of Designations until and unless a successor has been appointed and has accepted such appointment. Upon the request of any Holder, the Company will notify such Holder of the name and address of each Share Agent or co-Share Agent.

(iv) *Initial Appointments.* The Company appoints the Transfer Agent as the initial Paying Agent, the initial Registrar and the initial Conversion Agent.

(g) *Legends.*

(i) *Global Certificate Legend.* Each Global Certificate will bear the Global Certificate Legend (or any similar legend, not inconsistent with this Certificate of Designations, required by the Depository for such Global Certificate).

(ii) *Other Legends.* The certificate representing any Mandatory Convertible Preferred Stock may bear any other legend or text, not inconsistent with this Certificate of Designations, as may be required by applicable law or by any securities exchange or automated quotation system on which such Mandatory Convertible Preferred Stock is traded or quoted.

(iii) *Acknowledgement and Agreement by the Holders.* A Holder's acceptance of any Mandatory Convertible Preferred Stock represented by a certificate bearing any legend required by this **Section 3(g)** will constitute such Holder's acknowledgement of, and agreement to comply with, the restrictions set forth in such legend.

(h) *Transfers and Exchanges; Transfer Taxes; Certain Transfer Restrictions..*

(i) *Provisions Applicable to All Transfers and Exchanges.*

(1) *Generally.* Subject to this **Section 3(h)**, Mandatory Convertible Preferred Stock represented by a Physical Certificate, and beneficial interests in Global Certificates representing any Mandatory Convertible Preferred Stock, may be transferred or exchanged from time to time and the Company will cause the Registrar to record each such transfer or exchange in the Register.

(2) *No Services Charge; Transfer Taxes.* The Company and the Share Agents will not impose any service charge on any Holder for any transfer, exchange or conversion of any Mandatory Convertible Preferred Stock, but the Company, the Transfer Agent, the Registrar and the Conversion Agent may require payment of a sum sufficient to cover any transfer tax or similar governmental charge that may be imposed in connection with any transfer, exchange or conversion of Mandatory Convertible Preferred Stock, other than exchanges pursuant to **Section 3(i)** or **Section 3(q)** not involving any transfer.

(3) *No Transfers or Exchanges of Fractional Shares.* Notwithstanding anything to the contrary in this Certificate of Designations, all transfers or exchanges of Mandatory Convertible Preferred Stock must be in an amount representing a whole number of shares of Mandatory Convertible Preferred Stock, and no fractional share of Mandatory Convertible Preferred Stock may be transferred or exchanged.

(4) *Legends.* Each certificate representing any share of Mandatory Convertible Preferred Stock that is issued upon transfer of, or in exchange for, another share of Mandatory Convertible Preferred Stock will bear each legend, if any, required by **Section 3(g)**.

(5) *Settlement of Transfers and Exchanges.* Upon satisfaction of the requirements of this Certificate of Designations to effect a transfer or exchange of any Mandatory Convertible Preferred Stock, the Company will cause such transfer or exchange to be effected as soon as reasonably practicable but in no event later than the second (2nd) Business Day after the date of such satisfaction.

(ii) *Transfers and Exchanges of Mandatory Convertible Preferred Stock Represented by Global Certificates.*

(1) Subject to the immediately following sentence, no Mandatory Convertible Preferred Stock represented by a Global Certificate may be transferred or exchanged in whole except (x) by the Depository to a nominee of the Depository; (y) by a nominee of the Depository to the Depository or to another nominee of the Depository; or (z) by the Depository or any such nominee to a successor Depository or a nominee of such successor Depository. No Mandatory Convertible Preferred Stock represented by a Global Certificate may be transferred to, or exchanged for, Mandatory Convertible Preferred Stock represented by one or more Physical Certificates; *provided, however,* that:

(A) a Global Certificate will be exchanged, pursuant to customary procedures, for one or more Physical Certificates if:

(I) (x) the Depository notifies the Company or the Transfer Agent that the Depository is unwilling or unable to continue as Depository for such Global Certificate or (y) the Depository ceases to be a “clearing agency” registered under Section 17A of the Exchange Act and, in each case, the Company fails to appoint a successor Depository within ninety (90) days of such notice or cessation; or

(II) the Company, in its sole discretion, permits the exchange of any beneficial interest in such Global Certificate for Mandatory Convertible Preferred Stock represented by one or more Physical Certificates at the request of the owner of such beneficial interest; and

(B) beneficial interests in Global Certificates held by any direct or indirect Depository Participant may also be exchanged for Physical Certificates upon request to the Depository by such direct Depository Participant (for itself or on behalf of an indirect Depository Participant), to the Transfer Agent in accordance with their respective customary procedures.

(2) Upon satisfaction of the requirements of this Certificate of Designations to effect a transfer or exchange of any Mandatory Convertible Preferred Stock represented by a Global Certificate:

(A) the Company will cause the Transfer Agent or Registrar to reflect any resulting decrease of the number of shares of Mandatory Convertible Preferred Stock represented by such Global Certificate by notation on the “Schedule of Exchanges of Interests in the Global Certificate” forming part of such Global Certificate (and, if such notation results in such Global Certificate representing zero shares of Mandatory Convertible Preferred Stock, then the Company may (but is not required to) instruct the Transfer Agent to cancel such Global Certificate pursuant to **Section 3(m)**);

(B) if required to effect such transfer or exchange, then the Company will cause the Transfer Agent or Registrar to reflect any resulting increase of the number of shares of Mandatory Convertible Preferred Stock represented by any other Global Certificate by notation on the “Schedule of Exchanges of Interests in the Global Certificate” forming part of such other Global Certificate;

(C) if required to effect such transfer or exchange, then the Company will issue, execute and deliver, and cause the Transfer Agent to countersign, in each case in accordance with **Section 3(d)**, a new Global Certificate bearing each legend, if any, required by **Section 3(g)**; and

(D) if the Mandatory Convertible Preferred Stock represented by such Global Certificate, or any beneficial interest therein, is to be exchanged for Mandatory Convertible Preferred Stock represented by one or more Physical Certificates, then the Company will issue, execute and deliver, and cause the Transfer Agent to countersign, in each case in accordance with **Section 3(d)**, one or more Physical Certificates that (x) each represent a whole number of shares of Mandatory Convertible Preferred Stock and, in the aggregate, represent a total number of shares of Mandatory Convertible Preferred Stock equal to the number of shares of Mandatory Convertible Preferred Stock represented by such Global Certificate that are to be so exchanged; (y) are registered in such name(s) as the Depository specifies (or as otherwise determined pursuant to customary procedures); and (z) bear each legend, if any, required by **Section 3(g)**.

(3) Each transfer or exchange of a beneficial interest in any Global Certificate will be made in accordance with the Depository Procedures.

(iii) *Transfers and Exchanges of Mandatory Convertible Preferred Stock Represented by Physical Certificates.*

(1) Subject to this **Section 3(h)**, a Holder of any Mandatory Convertible Preferred Stock represented by a Physical Certificate may (x) transfer any whole number of shares of such Mandatory Convertible Preferred Stock to one or more other Person(s); (y) exchange any whole number of shares of such Mandatory Convertible Preferred Stock for an equal number of shares of Mandatory Convertible Preferred Stock represented by one or more other Physical Certificates; and (z) if then permitted by the Depositary Procedures, transfer any whole number of shares of such Mandatory Convertible Preferred Stock in exchange for a beneficial interest in the same number of shares of Mandatory Convertible Preferred Stock represented by one or more Global Certificates; *provided, however*, that, to effect any such transfer or exchange, such Holder must surrender such Physical Certificate representing the Mandatory Convertible Preferred Stock to be transferred or exchanged to the office of the Transfer Agent or the Registrar, together with any endorsements or transfer instruments reasonably required by the Company, the Transfer Agent or the Registrar.

(2) Upon the satisfaction of the requirements of this Certificate of Designations to effect a transfer or exchange of any whole number of shares of a Holder's Mandatory Convertible Preferred Stock represented by a Physical Certificate (such Physical Certificate being referred to as the "old Physical Certificate" for purposes of this **Section 3(h)(iii)(2)**):

(A) such old Physical Certificate will be promptly cancelled pursuant to **Section 3(m)**;

(B) if only part of the Mandatory Convertible Preferred Stock represented by such old Physical Certificate is to be so transferred or exchanged, then the Company will issue, execute and deliver, and cause the Transfer Agent to countersign, in each case in accordance with **Section 3(d)**, one or more Physical Certificates that (x) each represent a whole number of shares of Mandatory Convertible Preferred Stock and, in the aggregate, represent a total number of shares of Mandatory Convertible Preferred Stock equal to the number of shares of Mandatory Convertible Preferred Stock represented by such old Physical Certificate not to be so transferred or exchanged; (y) are registered in the name of such Holder; and (z) bear each legend, if any, required by **Section 3(g)**;

(C) in the case of a transfer:

(I) to the Depositary or a nominee thereof that will hold its interest in the shares of Mandatory Convertible Preferred Stock to be so transferred in the form of one or more Global Certificates, the Company will cause the Transfer Agent or Registrar to reflect an increase in the number of shares of Mandatory Convertible Preferred Stock represented by one or more existing Global Certificates by notation on the "Schedule of Exchanges of Interests in the Global Certificate" forming part of such Global Certificate(s), which increase(s) are each in whole numbers of shares of Mandatory Convertible Preferred Stock and aggregate to the total number of shares of Mandatory Convertible Preferred Stock to be so transferred, and which Global Certificate(s) bear each legend, if any, required by **Section 3(g)**; *provided, however*, that if such transfer cannot be so effected by notation on one or more existing Global Certificates (whether because no Global Certificates bearing each legend, if any, required by **Section 3(g)** then exist, because any such increase will result in any Global Certificate representing a number of shares of Mandatory Convertible Preferred Stock exceeding the maximum number permitted by the Depositary or otherwise), then the Company will issue, execute and deliver, and cause the Transfer Agent to countersign, in each case in accordance with **Section 3(d)**, one or more Global Certificates that (x) each represent a whole number of shares of Mandatory Convertible Preferred Stock and, in the aggregate, represent a total number of shares of Mandatory Convertible Preferred Stock equal to the number of shares of Mandatory Convertible Preferred Stock that are to be so transferred but that are not effected by notation as provided above; and (y) bear each legend, if any, required by **Section 3(g)**; and

(II) to a transferee that will hold its interest in the shares of Mandatory Convertible Preferred Stock to be so transferred in the form of one or more Physical Certificates, the Company will issue, execute and deliver, and cause the Transfer Agent to countersign, in each case in accordance with **Section 3(d)**, one or more Physical Certificates that (x) each represent a whole number of shares of Mandatory Convertible Preferred Stock and, in the aggregate, represent a total number of shares of Mandatory Convertible Preferred Stock equal to the number of shares of Mandatory Convertible Preferred Stock to be so transferred; (y) are registered in the name of such transferee; and (z) bear each legend, if any, required by **Section 3(g)**; and

(D) in the case of an exchange, the Company will issue, execute and deliver, and cause the Transfer Agent to countersign, in each case in accordance with **Section 3(d)**, one or more Physical Certificates that (x) each represent a whole number of shares of Mandatory Convertible Preferred Stock and, in the aggregate, represent a total number of shares of Mandatory Convertible Preferred Stock equal to the number of shares of Mandatory Convertible Preferred Stock to be so exchanged; (y) are registered in the name of the Person to whom such old Physical Certificate was registered; and (z) bear each legend, if any, required by **Section 3(g)**.

(iv) *Transfers of Shares Subject to Redemption or Conversion.* Notwithstanding anything to the contrary in this Certificate of Designations, the Company, the Transfer Agent and the Registrar will not be required to register the transfer of or exchange any share of Mandatory Convertible Preferred Stock that has been surrendered for conversion or has been called for Redemption pursuant to a Redemption Notice, except to the extent that the Company fails to pay the related Redemption Price when due.



(i) *Exchange and Cancellation of Mandatory Convertible Preferred Stock to Be Redeemed or Converted.*

(i) *Partial Conversions.* If only a portion of a Holder's Mandatory Convertible Preferred Stock represented by a Physical Certificate (such Physical Certificate being referred to as the "old Physical Certificate" for purposes of this **Section 3(i)(i)**) is to be converted pursuant to **Section 9**, then, as soon as reasonably practicable after such old Physical Certificate is surrendered for such conversion, the Company will cause such old Physical Certificate to be exchanged, pursuant and subject to **Section 3(h)(iii)**, for (1) one or more Physical Certificates that each represent a whole number of shares of Mandatory Convertible Preferred Stock and, in the aggregate, represent a total number of shares of Mandatory Convertible Preferred Stock equal to the number of shares of Mandatory Convertible Preferred Stock represented by such old Physical Certificate that are not to be so converted, and deliver such Physical Certificate(s) to such Holder; and (2) a Physical Certificate representing a whole number of shares of Mandatory Convertible Preferred Stock equal to the number of shares of Mandatory Convertible Preferred Stock represented by such old Physical Certificate that are to be so converted, which Physical Certificate will be converted pursuant to the terms of this Certificate of Designations; *provided, however*, that the Physical Certificate referred to in this **clause (2)** need not be issued at any time after which such shares subject to such conversion are deemed to cease to be outstanding pursuant to **Section 3(o)(iv)**.

(ii) *Cancellation of Redeemed or Converted Mandatory Convertible Preferred Stock.*

(1) *Physical Certificates.* If a Holder's Mandatory Convertible Preferred Stock represented by a Physical Certificate (or any portion thereof that has not theretofore been exchanged pursuant to **Section 3(i)(i)** (such Physical Certificate being referred to as the "old Physical Certificate" for purposes of this **Section 3(i)(ii)(1)**) is to be converted pursuant to **Section 9** or repurchased pursuant to a Redemption, then, promptly after the later of the time such Mandatory Convertible Preferred Stock is deemed to cease to be outstanding pursuant to **Section 3(o)** and the time such old Physical Certificate is surrendered for such conversion or repurchase, as applicable, (A) such old Physical Certificate will be cancelled pursuant to **Section 3(m)**; and (B) in the case of a partial conversion, the Company will issue, execute and deliver to such Holder, and cause the Transfer Agent to countersign, in each case in accordance with **Section 3(d)**, one or more Physical Certificates that (x) each represent a whole number of shares of Mandatory Convertible Preferred Stock and, in the aggregate, represent a total number of shares of Mandatory Convertible Preferred Stock equal to the number of shares of Mandatory Convertible Preferred Stock represented by such old Physical Certificate that are not to be so converted; (y) are registered in the name of such Holder; and (z) bear each legend, if any, required by **Section 3(g)**.

(2) *Global Certificates.* If a Holder's Mandatory Convertible Preferred Stock represented by a Global Certificate (or any portion thereof) is to be converted pursuant to **Section 9** or repurchased pursuant to a Redemption, then, promptly after the time such Mandatory Convertible Preferred Stock is deemed to cease to be outstanding pursuant to **Section 3(o)**, the Company will cause the Transfer Agent or Registrar to reflect a decrease of the number of shares of Mandatory Convertible Preferred Stock represented by such Global Certificate in an amount equal to the number of shares of Mandatory Convertible Preferred Stock represented by such Global Certificate that are to be so converted or repurchased, as applicable, by notation on the "Schedule of Exchanges of Interests in the Global Certificate" forming part of such Global Certificate (and, if the number of shares represented by such Global Certificate is zero following such notation, cancel such Global Certificate pursuant to **Section 3(m)**).

(j) *Status of Retired Shares.* Upon any share of Mandatory Convertible Preferred Stock ceasing to be outstanding, such share will be deemed to be retired and to resume the status of an authorized and unissued share of preferred stock of the Company, and such share cannot thereafter be reissued as Mandatory Convertible Preferred Stock.

(k) *Replacement Certificates.* If a Holder of any Mandatory Convertible Preferred Stock claims that the certificate(s) representing such Mandatory Convertible Preferred Stock have been mutilated, lost, destroyed or wrongfully taken, then the Company will issue, execute and deliver, and cause the Transfer Agent to countersign, in each case in accordance with **Section 3(d)**, a replacement certificate representing such Mandatory Convertible Preferred Stock upon surrender to the Company or the Transfer Agent of such mutilated certificate, or upon delivery to the Company or the Transfer Agent of evidence of such loss, destruction or wrongful taking reasonably satisfactory to the Transfer Agent and the Company. In the case of a lost, destroyed or wrongfully taken certificate representing any Mandatory Convertible Preferred Stock, the Company and the Transfer Agent may require the Holder thereof to provide such security or indemnity that is reasonably satisfactory to the Company and the Transfer Agent to protect the Company and the Transfer Agent from any loss that any of them may suffer if such certificate is replaced.

Every replacement Mandatory Convertible Preferred Stock issued pursuant to this **Section 3(k)** will, upon such replacement, be deemed to be outstanding Mandatory Convertible Preferred Stock, entitled to all of the benefits of this Certificate of Designations equally and ratably with all other Mandatory Convertible Preferred Stock then outstanding.

(l) *Registered Holders; Certain Rights with Respect to Global Certificates.* Only the Holder of any Mandatory Convertible Preferred Stock will have rights under this Certificate of Designations as the owner of such Mandatory Convertible Preferred Stock. Without limiting the generality of the foregoing, Depositary Participants, as such, will have no rights under this Certificate of Designations with respect to the Mandatory Convertible Preferred Stock represented by any Global Certificate held on their behalf by the Depositary or its nominee, or by the Transfer Agent as its custodian, and the Company and the Share Agents, and their respective agents, may treat the Depositary as the absolute owner of the Mandatory Convertible Preferred Stock represented by such Global Certificate for all purposes whatsoever; *provided, however*, that (i) the Holder of any Mandatory Convertible Preferred Stock represented by any Global Certificate may grant proxies and otherwise authorize any Person, including Depositary Participants and Persons that hold interests in Mandatory Convertible Preferred Stock through Depositary Participants, to take any action that such Holder is entitled to take with respect to the Mandatory Convertible Preferred Stock represented by such Global Certificate under this Certificate of Designations; and (ii) the Company and the Share Agents, and their respective agents, may give effect to any written certification, proxy or other authorization furnished by the Depositary.

(m) *Cancellation.* Without limiting the generality of the last sentence of **Section 3(p)**, the Company may at any time deliver Mandatory Convertible Preferred Stock to the Transfer Agent for cancellation. The Registrar, the Paying Agent and the Conversion Agent will forward to the Transfer Agent each share of Mandatory Convertible Preferred Stock duly surrendered to them for transfer, exchange, payment or conversion. The Company will cause the Transfer Agent to promptly cancel all shares of Mandatory Convertible Preferred Stock so surrendered to it in accordance with its customary procedures.

(n) *Shares Held by the Company or its Affiliates.* Without limiting the generality of **Sections 3(o)** and **3(p)**, in determining whether the Holders of the required number of outstanding shares of Mandatory Convertible Preferred Stock (and, if applicable Voting Parity Stock) have concurred in any direction, waiver or consent, shares of Mandatory Convertible Preferred Stock owned by the Company or any of its Affiliates will be deemed not to be outstanding.

(o) *Outstanding Shares.*

(i) *Generally.* The shares of Mandatory Convertible Preferred Stock that are outstanding at any time will be deemed to be those shares of Mandatory Convertible Preferred Stock that, at such time, have been duly executed by the Company and countersigned by the Transfer Agent, excluding those shares of Mandatory Convertible Preferred Stock that have theretofore been (1) cancelled by the Transfer Agent or delivered to the Transfer Agent for cancellation in accordance with **Section 3(m)**; (2) assigned a number of outstanding shares of zero by notation on the “Schedule of Exchanges of Interests in the Global Certificate” forming part of the Global Certificate representing such Mandatory Convertible Preferred Stock; (3) paid or settled in full upon their conversion or Redemption in accordance with this Certificate of Designations; or (4) deemed to cease to be outstanding to the extent provided in, and subject to, **clause (ii), (iii) or (iv)** of this **Section 3(o)**.

(ii) *Replaced Shares.* If any certificate representing any share of Mandatory Convertible Preferred Stock is replaced pursuant to **Section 3(k)**, then such share will cease to be outstanding at the time of such replacement, unless the Transfer Agent and the Company receive proof reasonably satisfactory to them that such share is held by a “*bona fide* purchaser” under applicable law.

(iii) *Shares Called for Redemption.* If, on an Acquisition Non-Occurrence Redemption Date, the Paying Agent holds consideration in kind and amount that is sufficient to pay the aggregate Redemption Price due on such date, then (unless there occurs a default in the payment of the Redemption Price): (1) the Mandatory Convertible Preferred Stock to be redeemed on such date will be deemed, as of such date, to cease to be outstanding (without limiting the Company's obligations pursuant to **Section 5(c)**); and (2) the rights of the Holders of such Mandatory Convertible Preferred Stock, as such, will terminate with respect to such Mandatory Convertible Preferred Stock, other than the right to receive the Redemption Price as provided in **Section 7** (and, if applicable, declared dividends as provided in **Section 5(c)**).

(iv) *Shares to Be Converted.* At the Close of Business on the Conversion Date for any Mandatory Convertible Preferred Stock to be converted, such Mandatory Convertible Preferred Stock will (unless there occurs a default in the delivery of the Conversion Consideration due pursuant to **Section 9** upon such conversion) be deemed to cease to be outstanding (without limiting the Company's obligations pursuant to **Section 5(c)**).

(p) *Repurchases by the Company and its Subsidiaries.* Without limiting the generality **Section 3(m)** and the next sentence, the Company may, from time to time, directly or indirectly repurchase or otherwise acquire Mandatory Convertible Preferred Stock in open market purchases or in negotiated transactions without the consent of, or notice to, the Holders. The Company will promptly deliver to the Transfer Agent for cancellation all Mandatory Convertible Preferred Stock that the Company or any of its Subsidiaries have purchased or otherwise acquired.

(q) *Notations and Exchanges.* Without limiting any rights of Holders pursuant to **Section 8**, if any amendment, supplement or waiver to the Certificate of Incorporation or this Certificate of Designations changes the terms of any Mandatory Convertible Preferred Stock, then the Company may, in its discretion, require the Holder of the certificate representing such Mandatory Convertible Preferred Stock to deliver such certificate to the Transfer Agent so that the Transfer Agent may place an appropriate notation prepared by the Company on such certificate and return such certificate to such Holder. Alternatively, at its discretion, the Company may, in exchange for such Mandatory Convertible Preferred Stock, issue, execute and deliver, and cause the Transfer Agent to countersign, in each case in accordance with **Section 3(d)**, a new certificate representing such Mandatory Convertible Preferred Stock that reflects the changed terms. The failure to make any appropriate notation or issue a new certificate representing any Mandatory Convertible Preferred Stock pursuant to this **Section 3(q)** will not impair or affect the validity of such amendment, supplement or waiver.

(r) *CUSIP and ISIN Numbers.* The Company may use one or more CUSIP or ISIN numbers to identify any of the Mandatory Convertible Preferred Stock, and, if so, the Company will use such CUSIP or ISIN number(s) in notices to Holders; *provided, however*, that the effectiveness of any such notice will not be affected by any defect in, or omission of, any such CUSIP or ISIN number.

Section 4. RANKING. The Mandatory Convertible Preferred Stock will rank (a) senior to (i) Dividend Junior Stock with respect to the payment of dividends; and (ii) Liquidation Junior Stock with respect to the distribution of assets upon the Company's liquidation, dissolution or winding up; (b) equally with (i) Dividend Parity Stock with respect to the payment of dividends; and (ii) Liquidation Parity Stock with respect to the distribution of assets upon the Company's liquidation, dissolution or winding up; and (c) junior to (i) Dividend Senior Stock with respect to the payment of dividends; and (ii) Liquidation Senior Stock with respect to the distribution of assets upon the Company's liquidation, dissolution or winding up.

Section 5. DIVIDENDS.

(a) *Generally*.

(i) *Accumulation and Payment of Dividends*. The Mandatory Convertible Preferred Stock will accumulate cumulative dividends at a rate per annum equal to the Stated Dividend Rate on the Liquidation Preference thereof, regardless of whether or not declared or funds are legally available for their payment. Subject to the other provisions of this **Section 5**, such dividends will be payable when, as and if declared by the Board of Directors, out of funds legally available for their payment to the extent paid in cash, quarterly in arrears on each Dividend Payment Date, to the Holders as of the Close of Business on the immediately preceding Regular Record Date. Dividends on the Mandatory Convertible Preferred Stock will accumulate from, and including, the last date to which dividends have been paid (or, if no dividends have been paid, from, and including, the Initial Issue Date) to, but excluding, the next Dividend Payment Date, and dividends will cease to accumulate from and after October 15, 2024. No interest, dividend or other amount will accrue or accumulate on any dividend on the Mandatory Convertible Preferred Stock that is not declared or paid on the applicable Dividend Payment Date.

(ii) *Computation of Accumulated Dividends*. Accumulated dividends will be computed on the basis of a 360-day year consisting of twelve 30-day months.

(iii) *Priority of the Application of Dividend Payments to Arrearages*. Each payment of declared dividends on the Mandatory Convertible Preferred Stock will be applied to the earliest Dividend Period for which dividends have not yet been paid.

(b) *Method of Payment*.

(i) *Generally*. Each declared dividend on the Mandatory Convertible Preferred Stock will be paid in cash unless the Company elects, by sending written notice to each Holder no later than the tenth (10th) Scheduled Trading Day before the applicable Dividend Payment Date, to pay all or any portion of such dividend in shares of Common Stock. Such written notice must state the total dollar amount of the declared dividend per share of Mandatory Convertible Preferred Stock and the respective dollar portions thereof that will be paid in cash and in shares of Common Stock. Any such election made in such written notice, once sent, will be irrevocable and will apply to all shares of Mandatory Convertible Preferred Stock then outstanding.

(ii) *Construction.* References in this Certificate of Designations to dividends “paid” on the Mandatory Convertible Preferred Stock, and any other similar language, will be deemed to include dividends paid thereon in shares of Common Stock in accordance with this **Section 5**.

(iii) *Dividends Paid Partially or Entirely in Shares of Common Stock.*

(1) *Generally.* The number of shares of Common Stock payable in respect of any dollar amount of a declared dividend that the Company has elected to pay in shares of Common Stock will be (x) such dollar amount, *divided by* (y) the Dividend Stock Price for such dividend; *provided, however*, that in no event will the total number of shares of Common Stock issuable per share of Mandatory Convertible Preferred Stock as payment for a declared dividend exceed an amount equal to (x) the total dollar amount of such declared dividend per share of Mandatory Convertible Preferred Stock (including, for the avoidance of doubt, the portion thereof that the Company has not elected to pay in shares of Common Stock), *divided by* (y) the Floor Price in effect on the last VWAP Trading Day of the related Dividend Stock Price Observation Period. If the dollar amount of such declared dividend per share of Mandatory Convertible Preferred Stock that the Company has elected to pay in shares of Common Stock exceeds the product of such Dividend Stock Price and the number of shares of Common Stock delivered or deliverable (without regard to the Company’s obligation to pay cash in lieu of any fractional share of Common Stock) per share of Mandatory Convertible Preferred Stock in respect of such dividend, then the Company will, to the extent it is legally able to do so, declare and pay, on the relevant Dividend Payment Date, such excess amount in cash ratably in respect of all shares of Mandatory Convertible Preferred Stock then outstanding.

(2) *Payment of Cash in Lieu of any Fractional Share of Common Stock.* Notwithstanding anything to the contrary in **Section 5(b)(iii)(1)**, but subject to **Section 12(b)**, in lieu of delivering any fractional share of Common Stock otherwise issuable as payment for all or any portion of a declared dividend that the Company has elected to pay in shares of Common Stock, the Company will, to the extent it is legally able to do so, pay cash based on the Daily VWAP per share of Common Stock on the last VWAP Trading Day of the relevant Dividend Stock Price Observation Period.

(3) *When Holders Become Stockholders of Record of Shares of Common Stock Issued as Payment for a Declared Dividend.* If the Company has elected to pay all or any portion of a declared dividend on any share of Mandatory Convertible Preferred Stock in shares of Common Stock, then such shares of Common Stock, when issued, will be registered in the name of the Holder of such share of Mandatory Convertible Preferred Stock as of the Close of Business on the related Regular Record Date, and such Holder will be deemed to become the holder of record of such shares of Common Stock as of the Close of Business on the last VWAP Trading Day of the related Dividend Stock Price Observation Period.

(4) *Settlement Delayed if Necessary to Calculate the Dividend Stock Price.* If the Company has elected to pay all or any portion of a declared dividend in shares of Common Stock and the last VWAP Trading Day of the related Dividend Stock Price Observation Period occurs on or after the related Dividend Payment Date, then the payment of such declared dividend will be made on the Business Day immediately after such last VWAP Trading Day and no interest, dividend or other amount will accrue or accumulate during the related period as a result of the related delay.

(5) *Securities Laws Matters.* If, in the Company's reasonable judgment, the issuance of shares of Common Stock as payment for any declared dividend on the Mandatory Convertible Preferred Stock, or the resale of those shares by Holders or beneficial owners that are not, and have not at any time during the preceding three (3) months been, an Affiliate of the Company, requires registration under the Securities Act, then the Company will use its commercially reasonable efforts to:

(A) file and cause there to become effective under the Securities Act a registration statement covering such issuance or covering such resales from time to time, pursuant to Rule 415 under the Securities Act, by such Holders or beneficial owners, as applicable;

(B) keep such registration statement effective under the Securities Act until all such shares are resold pursuant to such registration statement or are, or would be, eligible for resale without restriction, pursuant to Rule 144 under the Securities Act (or any successor rule), by Holders or beneficial owners that are not, and have not at any time during the preceding three (3) months been, an Affiliate of the Company; and

(C) qualify or register such shares under applicable U.S. state securities laws, to the extent required in the Company's reasonable judgment.

(c) *Treatment of Dividends Upon Redemption or Conversion.* If the Acquisition Non-Occurrence Redemption Date or Conversion Date, as the case may be, of any share of Mandatory Convertible Preferred Stock is after a Regular Record Date for a declared dividend on the Mandatory Convertible Preferred Stock and on or before the next Dividend Payment Date, then the Holder of such share at the Close of Business on such Regular Record Date will be entitled, notwithstanding such Redemption or conversion, as applicable, to receive, on or, at the Company's election, before such Dividend Payment Date, such declared dividend on such share.

Except as provided in the preceding paragraph, **Section 7**, **Section 9(d)(ii)** or **Section 9(e)(iii)**, dividends on any share of Mandatory Convertible Preferred Stock will cease to accumulate from and after the Acquisition Non-Occurrence Redemption Date or Conversion Date, as applicable, for such share.

(d) *Priority of Dividends; Limitation on Junior Payments; No Participation Rights.*

(i) *Generally.* Except as provided in **Sections 5(d)(iii)** and **5(d)(iv)**, this Certificate of Designations will not prohibit or restrict the Company or the Board of Directors from declaring or paying any dividend or distribution (whether in cash, securities or other property, or any combination of the foregoing) on any class or series of the Company's stock, and, unless such dividend or distribution is also declared on the Mandatory Convertible Preferred Stock, the Mandatory Convertible Preferred Stock will not be entitled to participate in such dividend or distribution.

(ii) *Construction.* For purposes of **Sections 5(d)(iii)** and **5(d)(iv)**, a dividend on the Mandatory Convertible Preferred Stock will be deemed to have been paid if such dividend is declared and consideration in kind and amount that is sufficient, in accordance with this Certificate of Designations, to pay such dividend is set aside for the benefit of the Holders entitled thereto.

(iii) *Limitation on Dividends on Parity Stock.* If:

(1) less than all accumulated and unpaid dividends on the outstanding Mandatory Convertible Preferred Stock have been declared and paid as of any Dividend Payment Date; or

(2) the Board of Directors declares a dividend on the Mandatory Convertible Preferred Stock that is less than the total amount of unpaid dividends on the outstanding Mandatory Convertible Preferred Stock that would accumulate to, but excluding, the Dividend Payment Date following such declaration,

then, until and unless all accumulated and unpaid dividends on the outstanding Mandatory Convertible Preferred Stock have been paid, no dividends may be declared or paid on any class or series of Dividend Parity Stock unless dividends are simultaneously declared on the Mandatory Convertible Preferred Stock on a pro rata basis, such that (A) the ratio of (x) the dollar amount of dividends so declared per share of Mandatory Convertible Preferred Stock to (y) the dollar amount of the total accumulated and unpaid dividends per share of Mandatory Convertible Preferred Stock immediately before the payment of such dividend is no less than (B) the ratio of (x) the dollar amount of dividends so declared or paid per share of such class or series of Dividend Parity Stock to (y) the dollar amount of the total accumulated and unpaid dividends per share of such class or series of Dividend Parity Stock immediately before the payment of such dividend (which dollar amount in this **clause (y)** will, if dividends on such class or series of Dividend Parity Stock are not cumulative, be the full amount of dividends per share thereof in respect of the most recent dividend period thereof).



(iv) *Limitation on Junior Payments.* Subject to the next sentence, if any Mandatory Convertible Preferred Stock is outstanding, then no dividends or distributions (whether in cash, securities or other property, or any combination of the foregoing) will be declared or paid on any Junior Stock, and neither the Company nor any of its Subsidiaries will purchase, redeem or otherwise acquire for value (whether in cash, securities or other property, or any combination of the foregoing) any Junior Stock, in each case unless all accumulated dividends on the Mandatory Convertible Preferred Stock then outstanding for all prior completed Dividend Periods, if any, have been paid in full. Notwithstanding anything to the contrary in the preceding sentence, the restrictions set forth in the preceding sentence will not apply to the following:

(1) dividends and distributions on Junior Stock that are payable solely in shares of Junior Stock, together with cash in lieu of any fractional share;

(2) purchases, redemptions or other acquisitions of Junior Stock with the proceeds of a substantially concurrent sale of other Junior Stock;

(3) purchases, redemptions or other acquisitions of Junior Stock in connection with the administration of any equity award or benefit or other incentive plan of the Company (including any employment contract) in the ordinary course of business, including (x) the forfeiture of unvested shares of restricted stock, or any withholdings (including withholdings effected by a repurchase or similar transaction), or other surrender, of shares that would otherwise be deliverable upon exercise, delivery or vesting of equity awards under any such plan or contract, in each case whether for payment of applicable taxes or the exercise price, or otherwise; (y) cash paid in connection therewith in lieu of issuing any fractional share; and (z) purchases of Junior Stock pursuant to a publicly announced repurchase plan to offset the dilution resulting from issuances pursuant to any such plan or contract; *provided, however*, that repurchases pursuant to this **clause (z)** will be permitted pursuant to this **Section 5(d)(iv)(3)** only to the extent the number of shares of Junior Stock so repurchased does not exceed the related Number of Incremental Diluted Shares;

(4) purchases, or other payments in lieu of the issuance, of any fractional share of Junior Stock in connection with the conversion, exercise or exchange of such Junior Stock or of any securities convertible into, or exercisable or exchangeable for, Junior Stock;

(5) (x) dividends and distributions of Junior Stock, or rights to acquire Junior Stock, pursuant to a stockholder rights plan and (y) the redemption or repurchase of such rights pursuant to such stockholder rights plan;

(6) purchases of Junior Stock pursuant to a binding contract (including a stock repurchase plan) to make such purchases, if such contract was in effect before the Initial Issue Date;

(7) the settlement of any convertible note hedge transactions or capped call transactions entered into in connection with the issuance, by the Company or any of its Subsidiaries, of any debt securities that are convertible into, or exchangeable for, Common Stock (or into or for any combination of cash and Common Stock based on the value of the Common Stock), *provided* such convertible note hedge transactions or capped call transactions, as applicable, are on customary terms and were entered into either (x) before the Initial Issue Date or (y) in compliance with the first sentence of this **Section 5(d)(iv)**;

(8) the acquisition, by the Company or any of its Subsidiaries, of record ownership of any Junior Stock solely on behalf of Persons (other than the Company or any of its Subsidiaries) that are the beneficial owners thereof, including as trustee or custodian; and

(9) the exchange, conversion or reclassification of Junior Stock solely for or into other Junior Stock, together with the payment, in connection therewith, of cash in lieu of any fractional share.

For the avoidance of doubt, this **Section 5(d)(iv)** will not prohibit or restrict the payment or other acquisition for value of any debt securities that are convertible into, or exchangeable for, any Junior Stock.

Section 6. RIGHTS UPON LIQUIDATION, DISSOLUTION OR WINDING UP.

(a) *Generally.* If the Company liquidates, dissolves or winds up, whether voluntarily or involuntarily, then, subject to the rights of any of the Company's creditors or holders of any outstanding Liquidation Senior Stock, each share of Mandatory Convertible Preferred Stock will entitle the Holder thereof to receive payment for the following amount out of the Company's assets or funds legally available for distribution to the Company's stockholders, before any such assets or funds are distributed to, or set aside for the benefit of, any Liquidation Junior Stock:

- (i) the Liquidation Preference per share of Mandatory Convertible Preferred Stock; and
- (ii) all unpaid dividends that will have accumulated on such share to, but excluding, the date of such payment.

Upon payment of such amount in full on the outstanding Mandatory Convertible Preferred Stock, Holders of the Mandatory Convertible Preferred Stock will have no rights to the Company's remaining assets or funds, if any. If such assets or funds are insufficient to pay such amount in full on all outstanding shares of Mandatory Convertible Preferred Stock and the corresponding amounts payable in respect of all outstanding shares of Liquidation Parity Stock, if any, then, subject to the rights of any of the Company's creditors or holders of any outstanding Liquidation Senior Stock, such assets or funds will be distributed ratably on the outstanding shares of Mandatory Convertible Preferred Stock and Liquidation Parity Stock in proportion to the full accumulated and unpaid respective distributions to which such shares would otherwise be entitled.

(b) *Certain Business Combination Transactions Deemed Not to Be a Liquidation.* For purposes of **Section 6(a)**, the Company's consolidation or combination with, or merger with or into, or the sale, lease or other transfer of all or substantially all of the Company's assets (other than a sale, lease or other transfer in connection with the Company's liquidation, dissolution or winding up) to, another Person will not, in itself, constitute the Company's liquidation, dissolution or winding up for purposes of this Certificate of Designations, even if, in connection therewith, the Mandatory Convertible Preferred Stock is converted into, or is exchanged for, or represents solely the right to receive, other securities, cash or other property, or any combination of the foregoing.

(a) *Generally.* The Company will not have the right to redeem the Mandatory Convertible Preferred Stock at the Company's option unless an Acquisition Non-Occurrence Event occurs. If an Acquisition Non-Occurrence Event occurs, then, subject to the other provisions of this **Section 7**, the Company will have the right, at its election, to redeem all, but not less than all, of the Mandatory Convertible Preferred Stock on the Acquisition Non-Occurrence Redemption Date at the Redemption Price.

(b) *Redemption Price.* The Redemption Price that the Company will pay upon Redemption of the Mandatory Convertible Preferred Stock will be determined depending on whether the Redemption Stock Price exceeds the Minimum Conversion Price in effect on the Trading Day immediately before the related Redemption Notice Date.

(i) *Redemption Stock Price Does Not Exceed the Minimum Conversion Price.* If the Redemption Stock Price does not exceed the Minimum Conversion Price in effect on the Trading Day immediately before the related Redemption Notice Date, then the Redemption Price per share of Mandatory Convertible Preferred Stock will consist of cash in an amount equal to the Liquidation Preference of such share of Mandatory Convertible Preferred Stock plus accumulated and unpaid dividends on such share to, but excluding, the Acquisition Non-Occurrence Redemption Date; *provided, however*, that if the Acquisition Non-Occurrence Redemption Date is after a Regular Record Date for a declared dividend on the Mandatory Convertible Preferred Stock and on or before the next Dividend Payment Date, then (1) pursuant to **Section 5(c)**, the Holder of such share at the Close of Business on such Regular Record Date will be entitled, notwithstanding such Redemption, to receive, on or, at the Company's election, before such Dividend Payment Date, such declared dividend on such share; and (2) the Redemption Price will not include such declared dividend on such share.

(ii) *Redemption Stock Price Exceeds the Minimum Conversion Price.*

(1) *Generally.* If the Redemption Stock Price exceeds the Minimum Conversion Price in effect on the Trading Day immediately before the related Redemption Notice Date, then, subject to the other provisions of this **Section 7**, the Redemption Price per share of Mandatory Convertible Preferred Stock will consist of the following:

- (A) a number of shares of Common Stock equal to the Redemption Option Value Share Amount for such share;
- and
- (B) cash in an amount equal to the Redemption Dividend Value Dollar Amount for such share;

*provided, however,* that the Company will have the right to elect to pay all or any portion of the Redemption Option Value Share Amount in cash, and the Company will have the right to elect to pay all or any portion of the Redemption Dividend Value Dollar Amount in shares of Common Stock. To make such an election, the related Redemption Notice must state whether the Company is electing to pay all or any portion of the Redemption Option Value Share Amount in cash or whether the Company is electing to pay all or a portion of the Redemption Dividend Value Dollar Amount in shares of Common Stock and specify: (x) the respective portions of the Redemption Option Value Share Amount per share of Mandatory Convertible Preferred Stock that will be paid in cash versus in shares of Common Stock; and (y) the respective dollar amounts of the Redemption Dividend Value Dollar Amount per share of Mandatory Convertible Preferred Stock that will be paid in cash versus in shares of Common Stock. Any such election made in such Redemption Notice, once sent, will be irrevocable and will apply to all shares of Mandatory Convertible Preferred Stock being redeemed.

If the Company elects to pay all or any portion of the Redemption Option Value Share Amount in cash, then, subject to **Section 12(b)**, the cash payable in respect of such portion will be the product of such portion and the Redemption Average VWAP. If the Company elects to pay all or any portion of the Redemption Dividend Value Dollar Amount in shares of Common Stock, then, subject to **Section 12(b)**:

(I) the number of shares of Common Stock issuable in respect of such portion will be a number of shares (rounded to the nearest fourth (4th) decimal place) equal to (i) the dollar amount of the Redemption Dividend Value Dollar Amount to be paid in shares of Common Stock, *divided by* (ii) the greater of (x) the Floor Price in effect on the last VWAP Trading Day of the Redemption Observation Period and (y) ninety seven percent (97%) of the Redemption Average VWAP; and

(II) if the dollar amount of such Redemption Dividend Value Dollar Amount to be paid in shares of Common Stock exceeds the product of (x) ninety seven percent (97%) of the Redemption Average VWAP and (y) the number of shares of Common Stock issuable in respect thereof calculated in accordance the preceding **clause (I)** (and without regard to the Company's obligation to pay cash in lieu of any fractional share of Common Stock), then the Company will, to the extent it is legally able to do so, declare and pay such excess amount in cash to the Holders of the Mandatory Convertible Preferred Stock being redeemed (and, if the Company declares less than all of such excess for payment, then such payment will be made pro rata on all shares of Mandatory Convertible Preferred Stock being redeemed).

(2) *Payment of Cash in Lieu of any Fractional Share of Common Stock.* Subject to **Section 12(b)**, in lieu of delivering any fractional share of Common Stock otherwise due as payment for any portion of the Redemption Price, the Company will, to the extent it is legally able to do so, pay cash based on the Last Reported Sale Price per share of Common Stock on the second (2nd) Trading Day preceding the Acquisition Non-Occurrence Redemption Date.

(3) *When Holders Become Stockholders of Record of the Shares of Common Stock Issuable Upon Redemption.* If the consideration payable for the Redemption Price for any share of Mandatory Convertible Preferred Stock being redeemed includes any share of Common Stock, then such share of Common Stock, when issued, will be registered in the name of the Holder of such share of Mandatory Convertible Preferred Stock as of the Close of Business on the Scheduled Trading Day before the related Acquisition Non-Occurrence Redemption Date, and such Holder will be deemed to become the holder of record of such share of Common Stock as of the Close of Business on the Scheduled Trading Day before such Acquisition Non-Occurrence Redemption Date.

(c) *Acquisition Non-Occurrence Redemption Date.* The Acquisition Non-Occurrence Redemption Date will be a Business Day of the Company's choosing that is no more than sixty (60), nor less than thirty (30), calendar days after the Redemption Notice Date; *provided, however,* that, if the Redemption Stock Price exceeds the Minimum Conversion Price in effect on the Trading Day immediately before the Redemption Notice Date, and the Company elects to pay all or any portion of the Redemption Option Value Share Amount in cash or to pay all or any portion of the Redemption Dividend Value Dollar Amount in shares of Common Stock, then the Acquisition Non-Occurrence Redemption Date will be the second (2nd) Business Day after the last VWAP Trading Day of the related Redemption Observation Period.

(d) *Redemption Notice.* To exercise the Company's right to redeem the Mandatory Convertible Preferred Stock upon the occurrence of an Acquisition Non-Occurrence Event, the Company must send notice (the "**Redemption Notice**") of the Redemption to each Holder within ten (10) Business Days after the date such Acquisition Non-Occurrence Event occurs. Substantially contemporaneously, the Company will issue a press release through such national newswire service as it then uses (or publish the same through such other widely disseminated public medium as the Company then uses, including its website) containing the information set forth in the Redemption Notice. Such Redemption Notice must state:

(i) that an Acquisition Non-Occurrence Event has occurred and the Company's has exercised its right to call all of the outstanding Mandatory Convertible Preferred Stock for Redemption, briefly describing the Company's Redemption right under this Certificate of Designations;

(ii) the Acquisition Non-Occurrence Redemption Date (or, if applicable, the scheduled Acquisition Non-Occurrence Redemption Date and a brief description that the actual Acquisition Non-Occurrence Redemption Date will occur on the second (2nd) Business Day after the last VWAP Trading Day of the related Redemption Observation Period);

(iii) the Redemption Price per share of Mandatory Convertible Preferred Stock and, if applicable, whether the Company has elected to pay all or any portion of the Redemption Option Value Share Amount in cash or to pay all or any portion of the Redemption Dividend Value Dollar Amount in shares of Common Stock;

- (iv) if the Acquisition Non-Occurrence Redemption Date is after a Regular Record Date for a declared dividend on the Mandatory Convertible Preferred Stock and on or before the next Dividend Payment Date, that such dividend will be paid in accordance with **Section 5(c)**;
- (v) the name and address of the Transfer Agent and the Conversion Agent; and
- (vi) the CUSIP and ISIN numbers, if any, of the Mandatory Convertible Preferred Stock.

Section 8. VOTING RIGHTS. The Mandatory Convertible Preferred Stock will have no voting rights except as set forth in this Section 8, as provided in the Certificate of Incorporation or as required by the Delaware General Corporation Law.

(a) *Right to Designate Two Preferred Stock Directors Upon a Dividend Non-Payment Event.*

(i) *Generally.* If a Dividend Non-Payment Event occurs, then, subject to the other provisions of this **Section 8(a)**, the Company will cause the authorized number of the Company's directors to be increased by two (2) and the Holders, voting together as a single class with the holders of each other class or series of Voting Parity Stock, if any, will have the right to elect two (2) directors (such directors, the "**Preferred Stock Directors**") to fill such two (2) new directorships at the Company's next annual meeting of stockholders (or, if earlier, at a special meeting of the Company's stockholders called for such purpose in accordance with **Section 8(a)(iii)**) and at each following annual meeting of the Company's stockholders until such Dividend Non-Payment Event has been cured, at which time such right will terminate with respect to the Mandatory Convertible Preferred Stock until and unless a subsequent Dividend Non-Payment Event occurs; *provided, however*, that (1) as a condition (such condition, the "**Director Qualification Requirement**") to the election of any such Preferred Stock Director, such election must not cause the Company to violate any rule of the Nasdaq Global Select Market or any other any securities exchange or other trading facility on which any of the Company's securities are then listed or qualified for trading requiring that a majority of the Company's directors be independent; and (2) the Board of Directors will at no time include more than two (2) Preferred Stock Directors. Upon the termination of such right with respect to the Mandatory Convertible Preferred Stock and all other outstanding Voting Parity Stock, if any, the term of office of each person then serving as a Preferred Stock Director will immediately and automatically terminate and the authorized number of the Company's directors will automatically decrease by two (2). Each Preferred Stock Director will hold office until the Company's next annual meeting of stockholders or, if earlier, upon his or her death, resignation or removal or the termination of the term of such office as provided above in this **Section 8(a)(i)**.

(ii) *Removal and Vacancies of the Preferred Stock Directors.*

(1) *Removal.* At any time, each Preferred Stock Director may be removed either: (A) with cause in accordance with applicable law; or (B) with or without cause by the affirmative vote of the Holders, voting together as a single class with the holders of each class or series of Voting Parity Stock, if any, with similar voting rights that are then exercisable, representing a majority of the combined voting power of the Mandatory Convertible Preferred Stock and such Voting Parity Stock.

(2) *Filling Vacancies.* During the continuance of a Dividend Non-Payment Event, a vacancy in the office of any Preferred Stock Director (other than vacancies before the initial election of the Preferred Stock Directors in connection with such Dividend Non-Payment Event) may be filled, subject to the Director Qualification Requirement, by the remaining Preferred Stock Director or, if there is no remaining Preferred Stock Director or such vacancy resulted from the removal of a Preferred Stock Director, by the affirmative vote of the Holders, voting together as a single class with the holders of each class or series of Voting Parity Stock, if any, with similar voting rights that are then exercisable, representing a majority of the combined voting power of the Mandatory Convertible Preferred Stock and such Voting Parity Stock.

(iii) *The Right to Call a Special Meeting to Elect Preferred Stock Directors.* During the continuance of a Dividend Non-Payment Event, the Holders, and holders of each class or series of Voting Parity Stock, if any, with similar voting rights that are then exercisable, representing at least twenty five percent (25%) of the combined voting power of the Mandatory Convertible Preferred Stock and such Voting Parity Stock will have the right to call a special meeting of stockholders for the election of Preferred Stock Directors (including an election to fill any vacancy in the office of any Preferred Stock Director). Such right may be exercised by written notice, executed by such Holders and holders of Voting Parity Stock, as applicable, delivered to the Company at its principal executive offices (except that, in the case of any Global Certificate representing the Mandatory Convertible Preferred Stock or a global certificate representing such Voting Parity Stock, such notice must instead comply with the applicable Depository Procedures). Notwithstanding anything to the contrary in this **Section 8(a)(iii)**, if the Company's next annual or special meeting of stockholders is scheduled to occur within ninety (90) days after such right is exercised, and the Company is otherwise permitted to conduct such election at such next annual or special meeting, then such election will instead be included in the agenda for, and conducted at, such next annual or special meeting.

(b) *Voting and Consent Rights with Respect to Specified Matters.*

(i) *Generally.* Subject to the other provisions of this **Section 8(b)**, while any Mandatory Convertible Preferred Stock is outstanding, each of the following events will require, and cannot be effected without, the affirmative vote or consent of Holders, and holders of each class or series of Voting Parity Stock, if any, with similar voting or consent rights with respect to such event, representing at least two thirds ( $\frac{2}{3}$ rds) of the combined outstanding voting power of the Mandatory Convertible Preferred Stock and such Voting Parity Stock, if any:

(1) any amendment or modification of the Certificate of Incorporation to authorize or create, or to increase the authorized number of shares of, any class or series of Dividend Senior Stock or Liquidation Senior Stock;

(2) any amendment, modification or repeal of any provision of the Certificate of Incorporation or this Certificate of Designations that, individually or in the aggregate with all other such amendments, modifications or repeals made pursuant to this **Section 8(b)(i)(2)**, materially and adversely affects the rights, preferences or voting powers of the Mandatory Convertible Preferred Stock (other than an amendment, modification or repeal permitted by **Section 8(b)(iii)**); or

(3) the Company's consolidation or combination with, or merger with or into, another Person, or any binding or statutory share exchange or reclassification involving the Mandatory Convertible Preferred Stock, in each case unless:

(A) the Mandatory Convertible Preferred Stock either (x) remains outstanding after such consolidation, combination, merger, share exchange or reclassification; or (y) is converted or reclassified into, or is exchanged for, or represents solely the right to receive, preference securities of the continuing, resulting or surviving Person of such consolidation, combination, merger, share exchange or reclassification, or the parent thereof;

(B) the Mandatory Convertible Preferred Stock that remains outstanding or such preference securities, as applicable, have rights, preferences and voting powers that, taken as a whole, are not materially less favorable to the Holders or the holders thereof, as applicable, than the rights, preferences and voting powers, taken as a whole, of the Mandatory Convertible Preferred Stock immediately before the consummation of such consolidation, combination, merger, share exchange or reclassification; and

(C) if not the Company, the issuer of the Mandatory Convertible Preferred Stock that remains outstanding or such preference securities, as applicable, is a corporation duly organized and existing under the laws of the United States of America, any State thereof or the District of Columbia (who, if not the Company, will, for the avoidance of doubt, succeed the Company under this Certificate of Designations);



provided, however, that (x) a consolidation, combination, merger, share exchange or reclassification that satisfies the requirements of **clauses (A), (B) and (C) of Section 8(b)(i)(3)** will not require any vote or consent pursuant to **Section 8(b)(i)(1) or 8(b)(i)(2)**; and (y) each of the following will be deemed not to adversely affect the rights, preferences or voting powers of the Mandatory Convertible Preferred Stock (or cause any of the rights, preferences or voting powers of any such preference securities to be “materially less favorable” for purposes of **Section 8(b)(i)(3)(B)**) and will not require any vote or consent pursuant to **Section 8(b)(i)(1), 8(b)(i)(2) or 8(b)(i)(3)**:

- (I) any increase in the number of the authorized but unissued shares of the Company’s undesignated preferred stock;
- (II) any increase in the number of authorized or issued shares of Mandatory Convertible Preferred Stock;
- (III) the creation and issuance, or increase in the authorized or issued number, of any class or series of stock that is neither Dividend Senior Stock nor Liquidation Senior Stock; and
- (IV) the application of **Section 9(h)**, including the execution and delivery of any supplemental instruments pursuant to **Section 9(h)(iii)** solely to give effect to such provision.

(ii) *Where Some But Not All Classes or Series of Stock Are Adversely Affected.* If any event set forth in **Section 8(b)(i)(1), 8(b)(i)(2) or 8(b)(i)(3)** would adversely (and, in the case of **Section 8(b)(i)(2)**, individually or in the aggregate with all other amendments, modifications or repeals referred to in **Section 8(b)(i)(2)**, materially) affect the rights, preferences or voting powers of one or more, but not all, classes or series of Voting Parity Stock (which term, solely for purposes of this sentence, includes the Mandatory Convertible Preferred Stock), then those classes or series whose rights, preferences or voting powers would not be adversely (and, in the case of **Section 8(b)(i)(2)**, individually or in the aggregate with all other amendments, modifications or repeals referred to in **Section 8(b)(i)(2)**, materially) affected will be deemed not to have voting or consent rights with respect to such event. Furthermore, an amendment, modification or repeal described in **Section 8(b)(i)(2)** above that, individually or in the aggregate with all other amendments, modifications or repeals referred to in **Section 8(b)(i)(2)**, materially and adversely affects the special rights, preferences or voting powers of the Mandatory Convertible Preferred Stock cannot be effected without the affirmative vote or consent of Holders, voting separately as a class, of at least two thirds ( $\frac{2}{3}$ rds) of the Mandatory Convertible Preferred Stock then outstanding.

(iii) *Certain Amendments Permitted Without Consent.* Notwithstanding anything to the contrary in **Section 8(b)(i)(2)**, the Company may amend, modify or repeal any of the terms of the Mandatory Convertible Preferred Stock without the vote or consent of any Holder to:

- (1) cure any ambiguity or correct any omission, defect or inconsistency in this Certificate of Designations or the certificates representing the Mandatory Convertible Preferred Stock, including the filing of a certificate of correction, or a corrected instrument, pursuant to Section 103(f) of the Delaware General Corporation Law in connection therewith;
- (2) conform the provisions of this Certificate of Designations or the certificates, if any, representing the Mandatory Convertible Preferred Stock to the “Description of Mandatory Convertible Preferred Stock” section of the Company’s preliminary prospectus supplement, dated September 20, 2021, relating to the initial offering and sale of the Mandatory Convertible Preferred Stock, as supplemented by the related pricing term sheet; or

(3) make any other change to the Certificate of Incorporation, this Certificate of Designations or the certificates representing the Mandatory Convertible Preferred Stock that does not, individually or in the aggregate with all other such changes, materially and adversely affect the rights of any Holder (other than any Holders that have consented to such change).

(c) *Procedures for Voting and Consents.*

(i) *Rules and Procedures Governing Votes and Consents.* If any vote or consent of the Holders will be held or solicited, including at a regular annual meeting or a special meeting of stockholders, then the Board of Directors will adopt customary rules and procedures at its discretion to govern such vote or consent, subject to the other provisions of this **Section 8**. Such rules and procedures may include fixing a record date to determine the Holders (and, if applicable, holders of Voting Parity Stock) that are entitled to vote or provide consent, as applicable, rules governing the solicitation and use of proxies or written consents and customary procedures for the nomination and designation, by Holders (and, if applicable, holders of Voting Parity Stock), of Preferred Stock Directors for election. Without limiting the foregoing, the Persons calling any special meeting of stockholders pursuant to **Section 8(a)(iii)** will, at their election, be entitled to specify one or more Preferred Stock Director nominees in the notice referred to in such section, if such special meeting is scheduled to include the election of any Preferred Stock Director (including an election to fill any vacancy in the office of any Preferred Stock Director).

(ii) *Voting Power of the Mandatory Convertible Preferred Stock and Voting Parity Stock.* Each share of Mandatory Convertible Preferred Stock will be entitled to one vote on each matter on which the Holders of the Mandatory Convertible Preferred Stock are entitled to vote separately as a class and not together with the holders of any other class or series of stock (except as provided in this **Section 8** with respect to Voting Parity Stock). The respective voting powers of the Mandatory Convertible Preferred Stock and all classes or series of Voting Parity Stock entitled to vote on any matter together as a single class will be determined (including for purposes of determining whether a plurality, majority or other applicable portion of votes has been obtained) in proportion to their respective liquidation amounts. Solely for purposes of the preceding sentence, the liquidation amount of the Mandatory Convertible Preferred Stock or any such class or series of Voting Parity Stock will be the maximum amount payable in respect of the Mandatory Convertible Preferred Stock or such class or series, as applicable, assuming the Company is liquidated on the record date for the applicable vote or consent (or, if there is no record date, on the date of such vote or consent).

(iii) *Voting Standard for the Election of Preferred Stock Directors.* At any meeting in which the Mandatory Convertible Preferred Stock (and, if applicable, any class or series of Voting Parity Stock) is entitled to elect any Preferred Stock Director (including to fill any vacancy in the office of any Preferred Stock Director), the presence, in person or by proxy, of Holders of Mandatory Convertible Preferred Stock (and, if applicable, holders of each such class or series) representing a majority of the outstanding voting power of the Mandatory Convertible Preferred Stock (and, if applicable, each such class or series) will constitute a quorum. The affirmative vote of a majority of the outstanding voting power of the Mandatory Convertible Preferred Stock (and, if applicable, each such class or series) cast at such a meeting at which a quorum is present will be sufficient to elect the Preferred Stock Director(s).

(iv) *Written Consent in Lieu of Stockholder Meeting.* A consent or affirmative vote of the Holders pursuant to **Section 8(b)** may be given or obtained either in writing without a meeting or in person or by proxy at a regular annual meeting or a special meeting of stockholders.

Section 9. Conversion.

(a) *Generally.* The Mandatory Convertible Preferred Stock may be converted only pursuant to a Mandatory Conversion or an Early Conversion.

(b) *Conversion Procedures.*

(i) *Mandatory Conversion.* Mandatory Conversion will occur automatically, and without the need for any action on the part of the Holders, for all shares of Mandatory Convertible Preferred Stock that remain outstanding as of the Mandatory Conversion Date. The shares of Common Stock due upon Mandatory Conversion of any Mandatory Convertible Preferred Stock will be registered in the name of, and, if applicable, the cash due upon such Mandatory Conversion will be delivered to, the Holder of such Mandatory Convertible Preferred Stock as of the Close of Business on the Mandatory Conversion Date.

(ii) *Make-Whole Fundamental Change Conversions and Other Early Conversions.*

(1) *Global Certificates.* To convert a beneficial interest in a Global Certificate pursuant to an Early Conversion (including a Make-Whole Fundamental Change Conversion), the owner of such beneficial interest must (x) comply with the Depository Procedures for converting such beneficial interest (at which time such Early Conversion will become irrevocable); and (y) if applicable, pay any documentary or other taxes pursuant to **Section 10(d)**.

(2) *Physical Certificates.* To convert any share of Mandatory Convertible Preferred Stock represented by a Physical Certificate pursuant to an Early Conversion (including a Make-Whole Fundamental Change Conversion), the Holder of such share must (w) complete, manually sign and deliver to the Conversion Agent the conversion notice attached to such Physical Certificate or a facsimile of such conversion notice; (x) deliver such Physical Certificate to the Conversion Agent (at which time such Early Conversion will become irrevocable); (y) furnish any endorsements and transfer documents that the Company or the Conversion Agent may require; and (z) if applicable, pay any documentary or other taxes as pursuant to **Section 10(d)**.

(3) *Conversion Permitted only During Business Hours.* Mandatory Convertible Preferred Stock may be surrendered for Early Conversion (including a Make-Whole Fundamental Change Conversion) only after the Open of Business and before the Close of Business on a day that is a Business Day.

(iii) *Treatment of Accumulated Dividends upon Conversion.*

(1) *Adjustments for Accumulated Dividends.* Except as provided in **Sections 9(d)(ii), 9(e)(iii)(1) and 9(e)(iii)(2)**, the Applicable Conversion Rate will not be adjusted to account for any accumulated and unpaid dividends on any Mandatory Convertible Preferred Stock being converted.

(2) *Conversions Between a Regular Record Date and a Dividend Payment Date.* If the Conversion Date of any share of Mandatory Convertible Preferred Stock to be converted is after a Regular Record Date for a declared dividend on the Mandatory Convertible Preferred Stock and on or before the next Dividend Payment Date, then such dividend will be paid pursuant to **Section 5(c)** notwithstanding such conversion.

(iv) *When Converting Holders Become Stockholders of Record of the Shares of Common Stock Issuable Upon Conversion.* The Person in whose name any share of Common Stock is issuable upon conversion of any Mandatory Convertible Preferred Stock will be deemed to become the holder of record of such share as of the Close of Business on the Conversion Date for such conversion.

(v) *Conversions of Fractional Shares Not Permitted.* Notwithstanding anything to the contrary in this Certificate of Designations, in no event will any Holder be entitled to convert a number of shares of Mandatory Convertible Preferred Stock that is not a whole number.

(c) *Settlement Upon Conversion.*

(i) *Generally.* Subject to **Section 9(c)(ii)** and **Section 12(b)**, the Company will pay or deliver, as applicable, the following consideration per share of Mandatory Convertible Preferred Stock to settle the conversion of any Mandatory Convertible Preferred Stock as to which a Conversion Date has occurred:

(1) a number of shares of Common Stock equal to the Applicable Conversion Rate in effect immediately before the Close of Business on such Conversion Date;

(2) in the case of a Mandatory Conversion, the cash amount, if any, due pursuant to **Section 9(d)(ii)(2)** in respect of any Unpaid Accumulated Dividend Amount on such share; and

(3) in the case of a Make-Whole Fundamental Change Conversion, the cash amount, if any, due pursuant to **Section 9(e)(iii)(2)** in respect of any Unpaid Accumulated Dividend Amount or Future Dividend Present Value Amount on such share.

(ii) *Payment of Cash in Lieu of any Fractional Share of Common Stock.* Subject to **Section 12(b)**, in lieu of delivering any fractional share of Common Stock otherwise due upon conversion of any Mandatory Convertible Preferred Stock, the Company will, to the extent it is legally able to do so, pay cash based on the Last Reported Sale Price per share of Common Stock on the Conversion Date for such conversion (or, if such Conversion Date is not a Trading Day, the immediately preceding Trading Day).

(iii) *Delivery of Conversion Consideration.* The Company will pay or deliver, as applicable, the Conversion Consideration due upon conversion of any Mandatory Convertible Preferred Stock on or before the second (2nd) Business Day immediately after the Conversion Date for such conversion.

(d) *Mandatory Conversion.*

(i) *Generally.* Unless previously converted or repurchased pursuant to a Redemption, each share of Mandatory Convertible Preferred Stock that is outstanding on the Mandatory Conversion Date will (without the need for any action on the part of the Holder thereof, the Company or any other Person) be deemed to be submitted for conversion (a “**Mandatory Conversion**”) with a Conversion Date occurring on the Mandatory Conversion Date.

(ii) *Calculation of the Applicable Conversion Rate; Unpaid Accumulated Dividend Amount.* The Applicable Conversion Rate for the Mandatory Conversion of any share of Mandatory Convertible Preferred Stock is the Mandatory Conversion Rate; *provided, however*, that if, as of the Mandatory Conversion Date, an Unpaid Accumulated Dividend Amount exists for such share, then:

(1) the Applicable Conversion Rate for such Mandatory Conversion will be increased by a number of shares (rounded to the nearest fourth (4th) decimal place) equal to (A) such Unpaid Accumulated Dividend Amount, *divided by* (B) the greater of (x) the Floor Price in effect on the Mandatory Conversion Date and (y) the Dividend Make-Whole Stock Price for such Mandatory Conversion; and

(2) if such Unpaid Accumulated Dividend Amount exceeds the product of such Dividend Make-Whole Stock Price and such number of shares added to the Applicable Conversion Rate pursuant to **clause (1)** above, then the Company will, to the extent it is legally able to do so, declare and pay such excess amount in cash (as Conversion Consideration) to the Holder of such share of Mandatory Convertible Preferred Stock being converted (and, if the Company declares less than all of such excess for payment, then such payment will be made pro rata on all shares of Mandatory Convertible Preferred Stock to be converted pursuant to a Mandatory Conversion).

(e) *Early Conversion at the Option of the Holders.*

(i) *Generally.* Holders will have the right to convert all or any portion of their shares of Mandatory Convertible Preferred Stock at any time until the Close of Business on the Mandatory Conversion Date.

(ii) *Right to Convert Shares Called for Redemption.* Notwithstanding anything to the contrary in this Certificate of Designations, shares of Mandatory Convertible Preferred Stock that are called for Redemption may not be submitted for conversion after the Close of Business on the Business Day immediately before the related Acquisition Non-Occurrence Redemption Date.

(iii) *Calculation of the Applicable Conversion Rate; Unpaid Accumulated Dividend Amount and Future Dividend Present Value Amount.*

(1) *Early Conversions that Are Not Make-Whole Fundamental Change Conversions.* The Applicable Conversion Rate for the Early Conversion (other than a Make-Whole Fundamental Change Conversion) of any share of Mandatory Convertible Preferred Stock is the Minimum Conversion Rate in effect on the Conversion Date for such Early Conversion; *provided, however*, that if, as of such Conversion Date, an Unpaid Accumulated Dividend Amount exists for such share, then:

(A) the Applicable Conversion Rate for such Early Conversion will be increased by a number of shares (rounded to the nearest fourth (4th) decimal place) equal to (I) such Unpaid Accumulated Dividend Amount, *divided by* (II) the greater of (x) the Floor Price in effect on such Conversion Date and (y) the Dividend Make-Whole Stock Price for such Early Conversion; and

(B) if such Unpaid Accumulated Dividend Amount exceeds the product of such Dividend Make-Whole Stock Price and such number of shares added to the Applicable Conversion Rate pursuant to **clause (A)** above, then the Company will have no obligation to pay such excess in cash or any other consideration.

(2) *Make-Whole Fundamental Change Conversions.* If a Make-Whole Fundamental Change occurs and the Conversion Date for the Early Conversion of any share of Mandatory Convertible Preferred Stock occurs during the Make-Whole Fundamental Change Conversion Period for such Make-Whole Fundamental Change (such an Early Conversion, a “**Make-Whole Fundamental Change Conversion**”), then the Applicable Conversion Rate for such Make-Whole Fundamental Change Conversion is the Make-Whole Fundamental Change Conversion Rate in effect on such Conversion Date; *provided, however*, that if, as of the effective date of such Make-Whole Fundamental Change, an Unpaid Accumulated Dividend Amount or a Future Dividend Present Value Amount exists for such share, then the Company will, to the extent it is legally able to do so, declare and pay such existing Unpaid Accumulated Dividend Amount, if any, and such existing Future Dividend Present Value Amount, if any, in cash (as Conversion Consideration) to the Holder of such share of Mandatory Convertible Preferred Stock being converted, unless, in each case, the Company has elected (in accordance with **Section 9(e)(iv)(2)**) to pay all or any portion of such Unpaid Accumulated Dividend Amount or Future Dividend Present Value Amount in shares of Common Stock, in which case:

(A) the Applicable Conversion Rate for such Make-Whole Fundamental Change Conversion will be increased by a number of shares (rounded to the nearest fourth (4th) decimal place) equal to (I) the dollar amount of such Unpaid Accumulated Dividend Amount or Future Dividend Present Value Amount, as applicable, to be paid in shares of Common Stock, *divided by* (II) the greater of (x) the Floor Price in effect on such Conversion Date; and (y) the Dividend Make-Whole Stock Price for such Make-Whole Fundamental Change Conversion; and

(B) if such dollar amount of such Unpaid Accumulated Dividend Amount or Future Dividend Present Value Amount, as applicable, to be paid in shares of Common Stock exceeds the product of such Dividend Make-Whole Stock Price and such number of shares added to the Applicable Conversion Rate in respect thereof pursuant to **clause (A)** above, then the Company will, to the extent it is legally able to do so, declare and pay such excess amount in cash (as Conversion Consideration) to the Holder of such share of Mandatory Convertible Preferred Stock being converted (and, if the Company declares less than all of such excess for payment, then such payment will be made pro rata on all shares of Mandatory Convertible Preferred Stock to be converted with a Conversion Date occurring during such Make-Whole Fundamental Change Conversion Period).

(iv) *Certain Provisions Applicable to Make-Whole Fundamental Change Conversions.*

(1) *Calculation of Make-Whole Fundamental Change Conversion Rate.*

(A) *Generally.* Subject to **Section 9(e)(iv)(1)(B)**, the “**Make-Whole Fundamental Change Conversion Rate**” for a Make-Whole Fundamental Change means the conversion rate set forth in the table below corresponding (after interpolation as provided in, and subject to, the immediately following paragraph) to the effective date and the Make-Whole Fundamental Change Stock Price of such Make-Whole Fundamental Change:

Effective Date	Make-Whole Fundamental Change Stock Price											
	\$145.00	\$155.00	\$165.00	\$175.00	\$185.00	\$195.00	\$205.00	\$226.63	\$250.00	\$275.00	\$300.00	\$350.00
September 24, 2021	0.4940	0.4887	0.4837	0.4790	0.4747	0.4707	0.4671	0.4604	0.4548	0.4503	0.4469	0.4427
October 15, 2022	0.5050	0.4989	0.4929	0.4871	0.4817	0.4766	0.4720	0.4635	0.4565	0.4510	0.4471	0.4427
October 15, 2023	0.5206	0.5139	0.5067	0.4992	0.4917	0.4845	0.4778	0.4656	0.4560	0.4492	0.4452	0.4416
October 15, 2024	0.5405	0.5405	0.5405	0.5405	0.5405	0.5128	0.4878	0.4413	0.4413	0.4413	0.4413	0.4413

If such effective date or Make-Whole Fundamental Change Stock Price is not set forth in the table above, then:

(I) if such Make-Whole Fundamental Change Stock Price is between two prices in the table above or the effective date is between two dates in the table above, then the Make-Whole Fundamental Change Conversion Rate will be determined by a straight-line interpolation between the Make-Whole Fundamental Change Conversion Rates set forth for the higher and lower prices in the table above or the earlier and later dates in the table above, based on a 365- or 366-day year, as applicable;

(II) if the Make-Whole Fundamental Change Stock Price is greater than \$350.00 (subject to adjustment in the same manner as the Make-Whole Fundamental Change Stock Prices set forth in the column headings of the table above are adjusted pursuant to **Section 9(e)(iv)(1)(B)**) per share, then the Make-Whole Fundamental Change Conversion Rate will be the Minimum Conversion Rate in effect on the relevant Conversion Date; and

(III) if the Make-Whole Fundamental Change Stock Price is less than \$145.00 (subject to adjustment in the same manner as the Make-Whole Fundamental Change Stock Prices set forth in the column headings of the table above are adjusted pursuant to **Section 9(e)(iv)(1)(B)**) per share, then the Make-Whole Fundamental Change Conversion Rate will be the Maximum Conversion Rate in effect on the relevant Conversion Date.

(B) *Adjustment of Make-Whole Fundamental Change Stock Prices and Make-Whole Fundamental Change Conversion Rates.* Whenever the Minimum Conversion Rate is adjusted pursuant to **Section 9(f)(i)**, each Make-Whole Fundamental Change Stock Price in the first row (*i.e.*, the column headers) of the table in **Section 9(e)(iv)(1)(A)** will be automatically adjusted at the same time by multiplying such Make-Whole Fundamental Change Stock Price by a fraction whose numerator is the Minimum Conversion Rate immediately before such adjustment and whose denominator is the Minimum Conversion Rate immediately after such adjustment. The Make-Whole Fundamental Change Conversion Rates in the table in **Section 9(e)(iv)(1)(A)** will be adjusted in the same manner as, and at the same time and for the same events for which, the Boundary Conversion Rates are adjusted pursuant to **Section 9(f)(i)**, subject to **Section 9(f)(vii)**.



(2) *Election to Pay All or any Portion of an Unpaid Accumulated Dividend Amount or Future Dividend Present Value Amount in Shares of Common Stock.* Each of the Unpaid Accumulated Dividend Amount and the Future Dividend Present Value Amount payable pursuant to **Section 9(e)(iii)(2)** will be paid in cash, to the extent the Company is legally able to do so, unless the Company elects, in accordance with the next sentence, to pay all or any portion thereof in shares of Common Stock. To make such an election, the related Make-Whole Fundamental Change Notice must be sent no later than the effective date of the Make-Whole Fundamental Change and must state such election and specify the respective dollar amounts of the Unpaid Accumulated Dividend Amount or Future Dividend Present Value Amount, as applicable, per share of Mandatory Convertible Preferred Stock that will be paid in cash and in shares of Common Stock. Any such election made in such Make-Whole Fundamental Change Notice, once sent, will be irrevocable and will apply to all conversions of the Mandatory Convertible Preferred Stock with a Conversion Date occurring during the related Make-Whole Fundamental Change Conversion Period. Notwithstanding anything to the contrary in this **Section 9(e)(iv)(2)**, to the extent that the Company is not legally able to pay any portion of the Unpaid Accumulated Dividend Amount or the Future Dividend Present Value Amount in cash, the Company will elect to pay the same in shares of Common Stock.

(3) *Make-Whole Fundamental Change Notice.* No later than the Business Day after the effective date of any Make-Whole Fundamental Change, the Company will send notice to the Holders of such Make-Whole Fundamental Change (a “**Make-Whole Fundamental Change Notice**”). Such Make-Whole Fundamental Change Notice must state:

(A) that a Make-Whole Fundamental Change has occurred, briefly stating the events causing such Make-Whole Fundamental Change;

(B) the effective date of such Make-Whole Fundamental Change;

(C) a brief description of the Holders’ right to convert their shares of Mandatory Convertible Preferred Stock at the Make-Whole Fundamental Change Conversion Rate and, if applicable, to receive the Unpaid Accumulated Dividend Amount and the Future Dividend Present Value Amount;

(D) the Make-Whole Fundamental Change Conversion Period;

- (E) the Make-Whole Fundamental Change Conversion Rate; and
- (F) the Unpaid Accumulated Dividend Amount and Future Dividend Present Value Amount per share of Mandatory Convertible Preferred Stock, including the dollar amounts thereof that the Company has elected to pay in cash or in shares of Common Stock;
- (G) the Applicable Conversion Rate;
- (H) the name and address of the Transfer Agent and the Conversion Agent; and
- (I) the CUSIP and ISIN numbers, if any, of the Mandatory Convertible Preferred Stock.

If the Company does not send such Make-Whole Fundamental Change Notice by the Business Day after such effective date, then the last day of the related Make-Whole Fundamental Change Conversion Period will be extended by the number of days from, and including, the Business Day after such effective date to, but excluding, the date the Company sends such Make-Whole Fundamental Change Notice. Subject to the preceding sentence, neither the failure to deliver a Make-Whole Fundamental Change Notice nor any defect in a Make-Whole Fundamental Change Notice will limit the right of any Holder to effect a Make-Whole Fundamental Change Conversion of its Mandatory Convertible Preferred Stock or otherwise affect the validity of any proceedings relating to any such conversion.

(f) *Boundary Conversion Rate Adjustments.*

(i) *Events Requiring an Adjustment to the Boundary Conversion Rates.* Each Boundary Conversion Rate will be adjusted from time to time as follows:

(1) *Stock Dividends, Splits and Combinations.* If the Company issues solely shares of Common Stock as a dividend or distribution on all or substantially all shares of the Common Stock, or if the Company effects a stock split or a stock combination of the Common Stock (in each case excluding an issuance solely pursuant to a Common Stock Change Event, as to which **Section 9(h)** will apply), then each Boundary Conversion Rate will be adjusted based on the following formula:

$$CR_t = CR_0 \times \frac{OS_t}{OS_0}$$

where:

- $CR_0$  = such Boundary Conversion Rate in effect immediately before the Close of Business on the Record Date for such dividend or distribution, or immediately before the Close of Business on the effective date of such stock split or stock combination, as applicable;
- $CR_1$  = such Boundary Conversion Rate in effect immediately after the Close of Business on such Record Date or effective date, as applicable;
- $OS_0$  = the number of shares of Common Stock outstanding immediately before the Close of Business on such Record Date or effective date, as applicable, without giving effect to such dividend, distribution, stock split or stock combination; and
- $OS_1$  = the number of shares of Common Stock outstanding immediately after giving effect to such dividend, distribution, stock split or stock combination.

If any dividend, distribution, stock split or stock combination of the type described in this **Section 9(f)(i)(1)** is declared or announced, but not so paid or made, then each Boundary Conversion Rate will be readjusted, effective as of the date the Board of Directors determines not to pay such dividend or distribution or to effect such stock split or stock combination, to the applicable Boundary Conversion Rate that would then be in effect had such dividend, distribution, stock split or stock combination not been declared or announced.

(2) *Rights, Options and Warrants.* If the Company distributes, to all or substantially all holders of Common Stock, rights, options or warrants (other than rights issued or otherwise distributed pursuant to a stockholder rights plan, as to which **Section 9(f)(i)(3)(A)** and **Section 9(f)(v)** will apply) entitling such holders, for a period of not more than sixty (60) calendar days after the Record Date of such distribution, to subscribe for or purchase shares of Common Stock at a price per share that is less than the average of the Last Reported Sale Prices per share of Common Stock for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before the date such distribution is announced, then each Boundary Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{OS + X}{OS + Y}$$

where:

- $CR_0$  = such Boundary Conversion Rate in effect immediately before the Close of Business on such Record Date;
- $CR_1$  = such Boundary Conversion Rate in effect immediately after the Close of Business on such Record Date;

- OS = the number of shares of Common Stock outstanding immediately before the Close of Business on such Record Date;
- X = the total number of shares of Common Stock issuable pursuant to such rights, options or warrants; and
- Y = a number of shares of Common Stock obtained by dividing (x) the aggregate price payable to exercise such rights, options or warrants by (y) the average of the Last Reported Sale Prices per share of Common Stock for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before the date such distribution is announced.

To the extent such rights, options or warrants are not so distributed, each Boundary Conversion Rate will be readjusted to the applicable Boundary Conversion Rate that would then be in effect had the increase to such Boundary Conversion Rate for such distribution been made on the basis of only the rights, options or warrants, if any, actually distributed. In addition, to the extent that shares of Common Stock are not delivered after the expiration of such rights, options or warrants (including as a result of such rights, options or warrants not being exercised), each Boundary Conversion Rate will be readjusted to the applicable Boundary Conversion Rate that would then be in effect had the increase to such Boundary Conversion Rate for such distribution been made on the basis of delivery of only the number of shares of Common Stock actually delivered upon exercise of such rights, option or warrants.

For purposes of this **Section 9(f)(i)(2)**, in determining whether any rights, options or warrants entitle holders of Common Stock to subscribe for or purchase shares of Common Stock at a price per share that is less than the average of the Last Reported Sale Prices per share of Common Stock for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before the date the distribution of such rights, options or warrants is announced, and in determining the aggregate price payable to exercise such rights, options or warrants, there will be taken into account any consideration the Company receives for such rights, options or warrants and any amount payable on exercise thereof, with the value of such consideration, if not cash, to be determined by the Board of Directors.

(3) *Spin-Offs and Other Distributed Property.*

(A) *Distributions Other than Spin-Offs.* If the Company distributes shares of its Capital Stock, evidences of the Company's indebtedness or other assets or property of the Company, or rights, options or warrants to acquire the Company's Capital Stock or other securities, to all or substantially all holders of the Common Stock, excluding:

(I) dividends, distributions, rights, options or warrants for which an adjustment to the Boundary Conversion Rates is required (or would be required without regard to **Section 9(f)(iii)**) pursuant to **Section 9(f)(i)(1)** or **9(f)(i)(2)**;

(II) dividends or distributions paid exclusively in cash for which an adjustment to the Boundary Conversion Rates is required (or would be required without regard to **Section 9(f)(iii)**) pursuant to **Section 9(f)(i)(4)**;

(III) rights issued or otherwise distributed pursuant to a stockholder rights plan, except to the extent provided in **Section 9(f)(v)**;

(IV) Spin-Offs for which an adjustment to the Boundary Conversion Rates is required (or would be required without regard to **Section 9(f)(iii)**) pursuant to **Section 9(f)(i)(3)(B)**;

(V) a distribution solely pursuant to a tender offer or exchange offer for shares of Common Stock, as to which **Section 9(f)(i)(5)** will apply; and

(VI) a distribution solely pursuant to a Common Stock Change Event, as to which **Section 9(h)** will apply,

then each Boundary Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{SP}{SP - FMV}$$

where:

$CR_0$  = such Boundary Conversion Rate in effect immediately before the Close of Business on the Record Date for such distribution;

$CR_1$  = such Boundary Conversion Rate in effect immediately after the Close of Business on such Record Date;

$SP$  = the average of the Last Reported Sale Prices per share of Common Stock for the ten (10) consecutive Trading Days ending on, and including, the Trading Day immediately before the Ex-Dividend Date for such distribution; and

$FMV$  = the fair market value (as determined by the Board of Directors), as of such Record Date, of the shares of Capital Stock, evidences of indebtedness, assets, property, rights, options or warrants distributed per share of Common Stock pursuant to such distribution;

provided, however, that, if *FMV* is equal to or greater than *SP*, then, in lieu of the foregoing adjustment to each Boundary Conversion Rate, each Holder will receive, for each share of Mandatory Convertible Preferred Stock held by such Holder on such Record Date, at the same time and on the same terms as holders of Common Stock, the amount and kind of shares of Capital Stock, evidences of indebtedness, assets, property, rights, options or warrants that such Holder would have received in such distribution if such Holder had owned, on such Record Date, a number of shares of Common Stock equal to the Maximum Conversion Rate in effect on such Record Date.

To the extent such distribution is not so paid or made, each Boundary Conversion Rate will be readjusted to the applicable Boundary Conversion Rate that would then be in effect had the adjustment been made on the basis of only the distribution, if any, actually made or paid.

(B) *Spin-Offs.* If the Company distributes or dividends shares of Capital Stock of any class or series, or similar equity interests, of or relating to an Affiliate or Subsidiary or other business unit of the Company to all or substantially all holders of the Common Stock (other than solely pursuant to (x) a Common Stock Change Event, as to which **Section 9(h)** will apply; or (y) a tender offer or exchange offer for shares of Common Stock, as to which **Section 9(f)(i)(5)** will apply), and such Capital Stock or equity interests are listed or quoted (or will be listed or quoted upon the consummation of the transaction) on a U.S. national securities exchange (a “**Spin-Off**”), then each Boundary Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{FMV + SP}{SP}$$

where:

$CR_0$  = such Boundary Conversion Rate in effect immediately before the Close of Business on the last Trading Day of the Spin-Off Valuation Period for such Spin-Off;

$CR_1$  = such Boundary Conversion Rate in effect immediately after the Close of Business on the last Trading Day of the Spin-Off Valuation Period;

- FMV* = the product of (x) the average of the Last Reported Sale Prices per share or unit of the Capital Stock or equity interests distributed in such Spin-Off over the ten (10) consecutive Trading Day period (the “**Spin-Off Valuation Period**”) beginning on, and including, the Ex-Dividend Date for such Spin-Off (such average to be determined as if references to Common Stock in the definitions of “Last Reported Sale Price,” “Trading Day” and “Market Disruption Event” were instead references to such Capital Stock or equity interests); and (y) the number of shares or units of such Capital Stock or equity interests distributed per share of Common Stock in such Spin-Off; and
- SP* = the average of the Last Reported Sale Prices per share of Common Stock for each Trading Day in the Spin-Off Valuation Period.

Notwithstanding anything to the contrary in this **Section 9(f)(i)(3)(B)**, if the Conversion Date for any share of Mandatory Convertible Preferred Stock to be converted occurs during the Spin-Off Valuation Period, then, solely for purposes of determining the consideration due in respect of such conversion, such Spin-Off Valuation Period will be deemed to consist of the Trading Days occurring in the period from, and including, the Ex-Dividend Date for such Spin-Off to, and including, such Conversion Date.

To the extent any dividend or distribution of the type described in **Section 9(f)(i)(3)(B)** is declared but not made or paid, each Boundary Conversion Rate will be readjusted to the applicable Boundary Conversion Rate that would then be in effect had the adjustment been made on the basis of only the dividend or distribution, if any, actually made or paid.

(4) *Cash Dividends or Distributions.* If any cash dividend or distribution is made to all or substantially all holders of Common Stock, then each Boundary Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{SP}{SP - D}$$

where:

*CR<sub>0</sub>* = such Boundary Conversion Rate in effect immediately before the Close of Business on the Record Date for such dividend or distribution;

- $CR_1$  = such Boundary Conversion Rate in effect immediately after the Close of Business on such Record Date;
- $SP$  = the Last Reported Sale Price per share of Common Stock on the Trading Day immediately before the Ex-Dividend Date for such dividend or distribution; and
- $D$  = the cash amount distributed per share of Common Stock in such dividend or distribution;

*provided, however,* that, if  $D$  is equal to or greater than  $SP$ , then, in lieu of the foregoing adjustment to the Boundary Conversion Rates, each Holder will receive, for each share of Mandatory Convertible Preferred Stock held by such Holder on such Record Date, at the same time and on the same terms as holders of Common Stock, the amount of cash that such Holder would have received in such dividend or distribution if such Holder had owned, on such Record Date, a number of shares of Common Stock equal to the Maximum Conversion Rate in effect on such Record Date. To the extent such dividend or distribution is declared but not made or paid, each Boundary Conversion Rate will be readjusted to the applicable Boundary Conversion Rate that would then be in effect had the adjustment been made on the basis of only the dividend or distribution, if any, actually made or paid.

(5) *Tender Offers or Exchange Offers.* If the Company or any of its Subsidiaries makes a payment in respect of a tender offer or exchange offer for shares of Common Stock, and the value (determined as of the Expiration Time by the Board of Directors) of the cash and other consideration paid per share of Common Stock in such tender or exchange offer exceeds the Last Reported Sale Price per share of Common Stock on the Trading Day immediately after the last date (the “**Expiration Date**”) on which tenders or exchanges may be made pursuant to such tender or exchange offer (as it may be amended), then each Boundary Conversion Rate will be increased based on the following formula:

$$CR_1 = CR_0 \times \frac{AC + (SP \times OS_1)}{SP \times OS_0}$$

where:

- $CR_0$  = such Boundary Conversion Rate in effect immediately before the Close of Business on the last Trading Day of the Tender/Exchange Offer Valuation Period for such tender or exchange offer;
- $CR_1$  = such Boundary Conversion Rate in effect immediately after the Close of Business on the last Trading Day of the Tender/Exchange Offer Valuation Period;



- AC* = the aggregate value (determined as of the time (the “**Expiration Time**”) such tender or exchange offer expires by the Board of Directors) of all cash and other consideration paid for shares of Common Stock purchased or exchanged in such tender or exchange offer;
- OS<sub>0</sub>* = the number of shares of Common Stock outstanding immediately before the Expiration Time (including all shares of Common Stock accepted for purchase or exchange in such tender or exchange offer);
- OS<sub>1</sub>* = the number of shares of Common Stock outstanding immediately after the Expiration Time (excluding all shares of Common Stock accepted for purchase or exchange in such tender or exchange offer); and
- SP* = the average of the Last Reported Sale Prices per share of Common Stock over the ten (10) consecutive Trading Day period (the “**Tender/Exchange Offer Valuation Period**”) beginning on, and including, the Trading Day immediately after the Expiration Date;

*provided, however*, that such Boundary Conversion Rate will in no event be adjusted down pursuant to this **Section 9(f)(i)(5)**, except to the extent provided in the immediately following paragraph. Notwithstanding anything to the contrary in this **Section 9(f)(i)(5)**, if the Conversion Date for any share of Mandatory Convertible Preferred Stock to be converted occurs during the Tender/Exchange Offer Valuation Period for such tender or exchange offer, then, solely for purposes of determining the consideration due in respect of such conversion, such Tender/Exchange Offer Valuation Period will be deemed to consist of the Trading Days occurring in the period from, and including, the Trading Day immediately after the Expiration Date to, and including, such Conversion Date.

To the extent such tender or exchange offer is announced but not consummated (including as a result of being precluded from consummating such tender or exchange offer under applicable law), or any purchases or exchanges of shares of Common Stock in such tender or exchange offer are rescinded, each Boundary Conversion Rate will be readjusted to the applicable Boundary Conversion Rate that would then be in effect had the adjustment been made on the basis of only the purchases or exchanges of shares of Common Stock, if any, actually made, and not rescinded, in such tender or exchange offer.

(ii) *No Adjustments in Certain Cases.*

(1) *Where Holders Participate in the Transaction or Event Without Conversion.* Notwithstanding anything to the contrary in **Section 9(f)(i)**, the Company is not required to adjust the Boundary Conversion Rates for a transaction or other event otherwise requiring an adjustment pursuant to **Section 9(f)(i)** (other than a stock split or combination of the type set forth in **Section 9(f)(i)(1)**) or a tender or exchange offer of the type set forth in **Section 9(f)(i)(5)** if each Holder participates, at the same time and on the same terms as holders of Common Stock, and solely by virtue of being a Holder of the Mandatory Convertible Preferred Stock, in such transaction or event without having to convert such Holder’s Mandatory Convertible Preferred Stock and as if such Holder held a number of shares of Common Stock equal to the product of (A) the Maximum Conversion Rate in effect on the related Record Date; and (B) the total number of shares of Mandatory Convertible Preferred Stock held by such Holder on such Record Date.

(2) *Certain Events.* The Company will not be required to adjust the Boundary Conversion Rates except pursuant to **Section 9(f)(i)** (it being understood that adjustments to the Applicable Conversion Rate may be made pursuant to **Section 9(d)(ii)(1)**, **Section 9(e)(iii)(1)** or **Section 9(e)(iii)(2)** and adjustments to the Make-Whole Fundamental Change Conversion Rates may be made pursuant to **Section 9(e)(iv)(1)(B)**). Without limiting the foregoing, the Company will not be required to adjust the Boundary Conversion Rates on account of:

(A) except as otherwise provided in **Section 9(f)(i)**, the sale of shares of Common Stock for a purchase price that is less than the market price per share of Common Stock or less than the Maximum Conversion Price or the Minimum Conversion Price;

(B) the issuance of any shares of Common Stock pursuant to any present or future plan providing for the reinvestment of dividends or interest payable on the Company's securities and the investment of additional optional amounts in shares of Common Stock under any such plan;

(C) the issuance of any shares of Common Stock or options or rights to purchase shares of Common Stock pursuant to any present or future employee, director or consultant benefit plan or program of, or assumed by, the Company or any of its Subsidiaries;

(D) the issuance of any shares of Common Stock pursuant to any option, warrant, right or convertible or exchangeable security of the Company outstanding as of the Initial Issue Date; or

(E) solely a change in the par value of the Common Stock.

(iii) *Adjustment Deferral.* If an adjustment to the Boundary Conversion Rates otherwise required by this Certificate of Designations would result in a change of less than one percent (1%) to the Boundary Conversion Rates, then the Company may, at its election, defer such adjustment, except that all such deferred adjustments must be given effect immediately upon the earliest of the following: (1) when all such deferred adjustments would result in a change of at least one percent (1%) to the Boundary Conversion Rates; (2) the Conversion Date of any share of Mandatory Convertible Preferred Stock; (3) the date a Make-Whole Fundamental Change occurs; (4) the date the Company calls the Mandatory Convertible Preferred Stock for Redemption; and (5) the first VWAP Trading Day of the Mandatory Conversion Observation Period.

(iv) *Special Provisions for Adjustments that Are Not Yet Effective.* Notwithstanding anything to the contrary in this Certificate of Designations, if:

- (1) any share of Mandatory Convertible Preferred Stock is to be converted;
- (2) the Record Date, effective date or Expiration Time for any event that requires an adjustment to the Boundary Conversion Rates pursuant to **Section 9(f)(i)** has occurred on or before the Conversion Date for such conversion, but an adjustment to the Boundary Conversion Rates for such event has not yet become effective as of such Conversion Date;
- (3) the consideration due upon such conversion includes any whole shares of Common Stock; and
- (4) such shares are not entitled to participate in such event (because they were not held on the related Record Date or otherwise),

then, solely for purposes of determining the kind and amount of consideration due upon such conversion, the Company will, without duplication, give effect to such adjustment on such Conversion Date. In such case, if the date the Company is otherwise required to deliver the consideration due upon such Conversion is before the first date on which the amount of such adjustment can be determined, then the Company will delay the settlement of such Conversion until the second (2nd) Business Day after such first date.

(v) *Stockholder Rights Plans.* If any shares of Common Stock are to be issued upon conversion of any Mandatory Convertible Preferred Stock and, at the time of such conversion, the Company has in effect any stockholder rights plan, then the Holder of such Mandatory Convertible Preferred Stock will be entitled to receive, in addition to, and concurrently with the delivery of, the consideration otherwise due upon such conversion, the rights set forth in such stockholder rights plan, unless such rights have separated from the Common Stock at such time, in which case, and only in such case, the Boundary Conversion Rates will be adjusted pursuant to **Section 9(f)(i)(3)(A)** on account of such separation as if, at the time of such separation, the Company had made a distribution of the type referred to in such **Section 9(f)(i)(3)(A)** to all holders of Common Stock, subject to potential readjustment in accordance with the last paragraph of **Section 9(f)(i)(3)(A)**.

(vi) *Determination of the Number of Outstanding Shares of Common Stock.* For purposes of **Section 9(f)(i)**, the number of shares of Common Stock outstanding at any time will (1) include shares issuable in respect of scrip certificates issued in lieu of fractions of shares of Common Stock; and (2) exclude shares of Common Stock held in the Company's treasury (unless the Company pays any dividend or makes any distribution on shares of Common Stock held in its treasury).

(vii) *Calculations.* All calculations with respect to the Boundary Conversion Rates and the Make-Whole Fundamental Change Conversion Rates and adjustments thereto will be made to the nearest 1/10,000th of a share of Common Stock (with 5/100,000ths rounded upward).

(viii) *Adjustment to the Boundary Conversion Prices.* For the avoidance of doubt, at the time any adjustment to the Boundary Conversion Rates pursuant to **Section 9(f)(i)** becomes effective, each of the Maximum Conversion Price and the Minimum Conversion Price will automatically adjust in accordance with the definition of such term.

(ix) *Notice of Boundary Conversion Rate Adjustments.* Upon the effectiveness of any adjustment to the Boundary Conversion Rates pursuant to **Section 9(f)(i)**, the Company will promptly send notice to the Holders containing: (1) a brief description of the transaction or other event on account of which such adjustment was made; (2) the Boundary Conversion Rates and Boundary Conversion Prices in effect immediately after such adjustment; and (3) the effective time of such adjustment.

(g) *Voluntary Conversion Rate Increases.*

(i) *Generally.* To the extent permitted by law and applicable stock exchange rules, the Company, from time to time, may (but is not required to) increase each Boundary Conversion Rate (with a corresponding decrease to the Boundary Conversion Prices pursuant to the definitions of such terms) by any amount if: (1) the Board of Directors determines that such increase is in the Company's best interest or that such increase is advisable to avoid or diminish any income tax imposed on holders of Common Stock or rights to purchase Common Stock as a result of any dividend or distribution of shares (or rights to acquire shares) of Common Stock or any similar event; (2) such increase is in effect for a period of at least twenty (20) Business Days; (3) such increase is irrevocable during such period; and (4) during such period, each Boundary Conversion Rate is increased by multiplying it by the same percentage factor.

(ii) *Notice of Voluntary Increase.* If the Board of Directors determines to increase the Boundary Conversion Rates pursuant to **Section 9(g)(i)**, then, no later than the first Business Day of the related twenty (20) Business Day period referred to in **Section 9(g)(i)**, the Company will send notice to each Holder, the Transfer Agent and the Conversion Agent of such increase to the Boundary Conversion Rates and corresponding decrease to the Boundary Conversion Prices, the amounts thereof and the period during which such increase and decrease will be in effect.

(h) *Effect of Common Stock Change Event.*

(i) *Generally.* If there occurs any:

(1) recapitalization, reclassification or change of the Common Stock, other than (x) changes solely resulting from a subdivision or combination of the Common Stock, (y) a change only in par value or from par value to no par value or no par value to par value or (z) stock splits and stock combinations that do not involve the issuance of any other series or class of securities;

(2) consolidation or merger of the Company with or into another Person;

(3) sale, lease or other transfer of all or substantially all of the assets of the Company and its Subsidiaries, taken as a whole, to any Person; or

(4) statutory exchange of our securities with another Person (other than in connection with a consolidation or merger referred to in the preceding **paragraph (2)**),

and, as a result of which, the Common Stock is converted into, or is exchanged for, or represents solely the right to receive, other securities, cash or other property, or any combination of the foregoing (such an event, a “**Common Stock Change Event**,” and such other securities, cash or property, the “**Reference Property**,” and the amount and kind of Reference Property that a holder of one (1) share of Common Stock would be entitled to receive on account of such Common Stock Change Event (without giving effect to any arrangement not to issue or deliver a fractional portion of any security or other property), a “**Reference Property Unit**”), then, notwithstanding anything to the contrary in this Certificate of Designations,

(A) from and after the effective time of such Common Stock Change Event, (I) the consideration due upon conversion of, or as payment for dividends on (including for purposes of determining whether a Dividend Non-Payment Event has occurred), or the Redemption Price for, any Mandatory Convertible Preferred Stock will be determined in the same manner as if each reference to any number of shares of Common Stock in this **Section 9** or in **Section 7**, **Section 5** and **Section 10**, as applicable, or in any related definitions, were instead a reference to the same number of Reference Property Units; and (II) for purposes of the definition of “Make-Whole Fundamental Change,” the terms “Common Stock” and “common equity” will be deemed to mean the common equity, if any, forming part of such Reference Property;

(B) for purposes of determining the kind and amount of consideration due upon conversion or redemption of, or as payment for dividends on, the Mandatory Convertible Preferred Stock, (I) the Daily VWAP of any Reference Property Unit or portion thereof that consists of a class of common equity securities will be determined by reference to the definition of “Daily VWAP;” substituting, if applicable, the Bloomberg page for such class of securities in such definition; and (II) the Daily VWAP of any Reference Property Unit or portion thereof that does not consist of a class of common equity securities, and the Last Reported Sale Price of any Reference Property Unit or portion thereof that does not consist of a class of securities, will be the fair value of such Reference Property Unit or portion thereof, as applicable, determined in good faith by the Company (or, in the case of cash denominated in U.S. dollars, the face amount thereof).

If the Reference Property consists of more than a single type of consideration to be determined based in part upon any form of stockholder election, then the composition of the Reference Property Unit will be deemed to be the weighted average of the types and amounts of consideration actually received, per share of Common Stock, by the holders of Common Stock. The Company will notify the Holders of such weighted average as soon as reasonably practicable after such determination is made.

(ii) *Compliance Covenant.* The Company will not become a party to any Common Stock Change Event unless its terms are consistent with this **Section 9(h)**.

(iii) *Execution of Supplemental Instruments.* On or before the date the Common Stock Change Event becomes effective, the Company and, if applicable, the resulting, surviving or transferee Person (if not the Company) of such Common Stock Change Event (the “**Successor Person**”) will execute and deliver such supplemental instruments, if any, as the Company reasonably determines are necessary or desirable to: (1) provide for subsequent adjustments to the Boundary Conversion Rates pursuant to **Section 9(f)(i)** (and other related terms of the Mandatory Convertible Preferred Stock, including the Boundary Conversion Prices and the Floor Price) in a manner consistent with this **Section 9(h)**; and (2) give effect to such other provisions, if any, as the Company reasonably determines are appropriate to preserve the economic interests of the Holders and to give effect to **Section 9(h)(i)**. If the Reference Property includes shares of stock or other securities or assets (other than cash) of a Person other than the Successor Person, then such other Person will also execute such supplemental instrument(s) and such supplemental instrument(s) will contain such additional provisions, if any, that the Company reasonably determines are appropriate to preserve the economic interests of Holders. For the avoidance of doubt, each supplemental instrument, if any, entered into solely to give effect to this **Section 9(h)** will be permitted pursuant to **Section 8(b)(i)(IV)** without any vote or consent of any of the preferred stockholders.

(iv) *Notice of Common Stock Change Event.* The Company will provide notice of each Common Stock Change Event to Holders no later than the effective date of the Common Stock Change Event.

Section 10. Certain Provisions Relating to the Issuance of Common Stock.

(a) *Equitable Adjustments to Prices.* Whenever this Certificate of Designations requires the Company to calculate the average of the Last Reported Sale Prices or Daily VWAPs, or any function thereof, over a period of multiple days (including to calculate the Mandatory Conversion Stock Price, the Make-Whole Fundamental Change Stock Price, the Dividend Make-Whole Stock Price, the Dividend Stock Price, the Redemption Stock Price, the Redemption Average VWAP or an adjustment to the Boundary Conversion Rates), the Company will make appropriate adjustments, if any, to those calculations to account for any adjustment to the Boundary Conversion Rates pursuant to **Section 9(f)(i)** that becomes effective, or any event requiring such an adjustment to the Boundary Conversion Rates where the Ex-Dividend Date, effective date or Expiration Date, as applicable, of such event occurs, at any time during such period.

(b) *Reservation of Shares of Common Stock.* The Company will reserve, out of its authorized, unreserved and not outstanding shares of Common Stock, for delivery upon conversion of the Mandatory Convertible Preferred Stock, a number of shares of Common Stock that would be sufficient to settle the conversion of all shares of Mandatory Convertible Preferred Stock then outstanding, if any, at the Maximum Conversion Rate then in effect. To the extent the Company delivers shares of Common Stock held in the Company's treasury in settlement of any obligation under this Certificate of Designations to deliver shares of Common Stock, each reference in this Certificate of Designations to the issuance of shares of Common Stock in connection therewith will be deemed to include such delivery of treasury shares.

(c) *Status of Shares of Common Stock.* Each share of Common Stock delivered upon conversion of, or as payment for all or any portion of any declared dividends on, or the Redemption Price for, the Mandatory Convertible Preferred Stock of any Holder will be a newly issued share or a treasury share and will be duly authorized, validly issued, fully paid, non-assessable, free from preemptive rights and free of any lien or adverse claim upon issuance or delivery (except to the extent of any lien or adverse claim created by the action or inaction of such Holder or the Person to whom such share of Common Stock will be delivered). If the Common Stock is then listed on any securities exchange, or quoted on any inter-dealer quotation system, then the Company will use its commercially reasonable efforts to cause each such share of Common Stock, when so delivered, to be admitted for listing on such exchange or quotation on such system. In addition, if such Mandatory Convertible Preferred Stock is then represented by a Global Certificate, then each such share of Common Stock will be so delivered through the facilities of the applicable Depository and (except to the extent contemplated by **Section 5(b)(iii)(5)**) identified by an "unrestricted" CUSIP number (and, if applicable, ISIN number).

(d) *Taxes Upon Issuance of Common Stock.* The Company will pay any documentary, stamp or similar issue or transfer tax or duty due on the issue of any shares of Common Stock upon conversion of, or as payment for all or any portion of any declared dividends on, or the Redemption Price for, the Mandatory Convertible Preferred Stock of any Holder, except any tax or duty that is due because such Holder requests those shares to be registered in a name other than such Holder's name.

Section 11. No Preemptive Rights. Without limiting the rights of Preferred Stockholders set forth in this Certificate of Designations (including in connection with the issuance of Common Stock or Reference Property upon conversion of, or as payment for dividends on or the Redemption Price for, the Mandatory Convertible Preferred Stock), the Mandatory Convertible Preferred Stock will not have any preemptive rights to subscribe for or purchase any of the Company's securities.

Section 12. Calculations.

(a) *Responsibility; Schedule of Calculations.* Except as otherwise provided in this Certificate of Designations, the Company will be responsible for making all calculations called for under this Certificate of Designations or the Mandatory Convertible Preferred Stock, including determinations of the Boundary Conversion Prices, the Boundary Conversion Rates, the Daily VWAPs, the Floor Price, the Last Reported Sale Prices and accumulated dividends on the Mandatory Convertible Preferred Stock. The Company will make all calculations in good faith, and, absent manifest error, its calculations will be final and binding on all Holders. The Company will provide a schedule of such calculations to any Holder upon written request.

(b) *Calculations Aggregated for Each Holder.* The composition of the consideration due upon conversion of, or as payment for any declared dividends on, or the Redemption Price for, the Mandatory Convertible Preferred Stock of any Holder will (in the case of a Global Certificate, to the extent permitted by, and practicable under, the Depositary Procedures) be computed based on the total number of shares of Mandatory Convertible Preferred Stock of such Holder being converted with the same Conversion Date, or held by such Holder at the Close of Business on the related Regular Record Date, or being redeemed, respectively. Any cash amounts due to such Holder in respect thereof will, after giving effect to the preceding sentence, be rounded to the nearest cent.

Section 13. No Sinking Fund Obligations. The Mandatory Convertible Preferred Stock will not be subject to any sinking fund or other obligation to redeem, repurchase or retire the Mandatory Convertible Preferred Stock, except to the extent provided in Section 7 or Section 9.

Section 14. Notices. The Company will send all notices or communications to Holders pursuant to this Certificate of Designations in writing by first class mail, certified or registered, return receipt requested, or by overnight air courier guaranteeing next day delivery, to the Holders' respective addresses shown on the Register; *provided, however,* that, in the case of Mandatory Convertible Preferred Stock represented by one or more Global Certificates, the Company is permitted to send notices or communications to Holders pursuant to the Depositary Procedures, and notices and communications that the Company sends in this manner will be deemed to have been properly sent to such Holders in writing when sent to the Depositary in accordance with the Depositary Procedures.

Section 15. Legally Available Funds. Without limiting the rights of the Preferred Stockholders (including pursuant to **Section 6** and **Section 8(a)**), if the Company does not have sufficient funds legally available to fully pay any cash amount otherwise due on the Mandatory Convertible Preferred Stock, then the Company will pay the deficiency promptly after funds thereafter become legally available therefor (and, if applicable in connection with the Company's liquidation, dissolution or winding up, after satisfaction of the Company's liabilities to its creditors and holders of shares of any class or series of Dividend Senior Stock or Liquidation Senior Stock).



Section 16. No Other Rights. The Mandatory Convertible Preferred Stock will have no rights, preferences or voting powers except as provided in this Certificate of Designations or the Certificate of Incorporation or as required by applicable law.

***[The Remainder of This Page Intentionally Left Blank; Signature Page Follows]***

**IN WITNESS WHEREOF**, the Company has caused this Certificate of Designations to be duly executed as of the date first written above.

RBC BEARINGS INCORPORATED

By: /s/ John J. Feeney

Name: John J. Feeney

Title: Vice President, General Counsel and Secretary

[Signature Page to Certificate of Designations]

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FORM OF MANDATORY CONVERTIBLE PREFERRED STOCK

[Insert Global Certificate Legend, if applicable]

**RBC BEARINGS INCORPORATED****5.00% Series A Mandatory Convertible Preferred Stock**

CUSIP No.:

Certificate No. [\_\_]

ISIN No.:

RBC Bearings Incorporated, a Delaware corporation (the “**Company**”), certifies that [Cede & Co.] is the registered owner of [\_\_]<sup>1</sup>[the number of shares set forth in the attached Schedule of Exchanges of Interests in the Global Certificate]<sup>2</sup> of the Company’s 5.00% Series A Mandatory Convertible Preferred Stock (the “**Mandatory Convertible Preferred Stock**”) represented by this certificate (this “**Certificate**”). The special rights, preferences and voting powers of the Mandatory Convertible Preferred Stock are set forth in the Certificate of Designations of the Company establishing the Mandatory Convertible Preferred Stock (the “**Certificate of Designations**”). Capitalized terms used in this Certificate without definition have the respective meanings ascribed to them in the Certificate of Designations.

Additional terms of this Certificate are set forth on the other side of this Certificate.

**[The Remainder of This Page Intentionally Left Blank; Signature Page Follows]**

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<sup>1</sup> Insert number of shares for Physical Certificate only.

<sup>2</sup> Insert bracketed language for Global Certificate only.

**IN WITNESS WHEREOF**, RBC Bearings Incorporated has caused this instrument to be duly executed as of the date set forth below.

RBC BEARINGS INCORPORATED

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name:

Title:

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name:

Title:

TRANSFER AGENT'S COUNTERSIGNATURE

Computershare Trust Company, N.A., as Transfer Agent, certifies that this Certificate represents shares of Mandatory Convertible Preferred Stock referred to in the within-mentioned Certificate of Designations.

Date: \_\_\_\_\_ By: \_\_\_\_\_  
Authorized Signatory

**RBC BEARINGS INCORPORATED**

**5.00% Series A Mandatory Convertible Preferred Stock**

This Certificate represents duly authorized, issued and outstanding shares of Mandatory Convertible Preferred Stock. Certain terms of the Mandatory Convertible Preferred Stock are summarized below. Notwithstanding anything to the contrary in this Certificate, to the extent that any provision of this Certificate conflicts with the provisions of the Certificate of Designations or the Certificate of Incorporation, the provisions of the Certificate of Designations or the Certificate of Incorporation, as applicable, will control.

1. **Method of Payment.** Cash amounts due on the Mandatory Convertible Preferred Stock represented by this Certificate will be paid in the manner set forth in Section 3(e) of the Certificate of Designations.

2. **Persons Deemed Owners.** The Person in whose name this Certificate is registered will be treated as the owner of the Mandatory Convertible Preferred Stock represented by this Certificate for all purposes, subject to Section 3(l) of the Certificate of Designations.

3. **Denominations; Transfers and Exchanges.** All shares of Mandatory Convertible Preferred Stock will be in registered form and in denominations equal to any whole number of shares. Subject to the terms of the Certificate of Designations, the Holder of the Mandatory Convertible Preferred Stock represented by this Certificate may transfer or exchange such Mandatory Convertible Preferred Stock by presenting this Certificate to the Registrar and delivering any required documentation or other materials.

4. **Dividends.** Dividends on the Mandatory Convertible Preferred Stock will accumulate and will be paid in the manner, and subject to the terms, set forth in Section 5 of the Certificate of Designations.

5. **Liquidation Preference.** The Liquidation Preference per share of Mandatory Convertible Preferred Stock is one hundred dollars (\$100). The rights of Holders upon the Company's liquidation, dissolution or winding up are set forth in Section 6 of the Certificate of Designations.

6. **Right of the Company to Redeem the Mandatory Convertible Preferred Stock.** The Company will have the right to redeem the Mandatory Convertible Preferred Stock in the manner, and subject to the terms, set forth in Section 7 of the Certificate of Designations.

7. **Voting Rights.** Holders of the Mandatory Convertible Preferred Stock have the voting rights set forth in Section 8 of the Certificate of Designations.

8. **Conversion.** The Mandatory Convertible Preferred Stock will be convertible into Conversion Consideration in the manner, and subject to the terms, set forth in Section 9 of the Certificate of Designations.

9. **Countersignature.** The Mandatory Convertible Preferred Stock represented by this Certificate will not be valid until this Certificate is countersigned by the Transfer Agent.

10. **Abbreviations.** Customary abbreviations may be used in the name of a Holder or its assignee, such as TEN COM (tenants in common), TEN ENT (tenants by the entireties), JT TEN (joint tenants with right of survivorship and not as tenants in common), CUST (custodian), and U/G/M/A (Uniform Gift to Minors Act).

\* \* \*

To request a copy of the Certificate of Designations, which the Company will provide to any Holder at no charge, please send a written request to the following address:

RBC Bearings Incorporated  
One Tribology Center  
102 Willenbrock Road  
Oxford, CT 06478  
Attention: Chief Financial Officer





**CONVERSION NOTICE**

RBC Bearings Incorporated

5.00% Series A Mandatory Convertible Preferred Stock

Subject to the terms of the Certificate of Designations, by executing and delivering this Conversion Notice, the undersigned Holder of the Mandatory Convertible Preferred Stock identified below directs the Company to convert (check one):

- all of the shares of Mandatory Convertible Preferred Stock
- \_\_\_\_\_<sup>1</sup> shares of Mandatory Convertible Preferred Stock

identified by CUSIP No. \_\_\_\_\_ and Certificate No. \_\_\_\_\_ .

Date: \_\_\_\_\_ (Legal Name of Holder)

By: \_\_\_\_\_  
Name:  
Title:

Signature Guaranteed:

\_\_\_\_\_  
Participant in a Recognized Signature  
Guarantee Medallion Program

By: \_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
<sup>1</sup> Must be a whole number.

**ASSIGNMENT FORM**

RBC Bearings Incorporated

5.00% Series A Mandatory Convertible Preferred Stock

Subject to the terms of the Certificate of Designations, the undersigned Holder of the Mandatory Convertible Preferred Stock identified below assigns (check one):

all of the shares of Mandatory Convertible Preferred Stock

\_\_\_\_\_<sup>1</sup> shares of Mandatory Convertible Preferred Stock

identified by CUSIP No. \_\_\_\_\_ and Certificate No. \_\_\_\_\_, and all rights thereunder, to:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Social security or tax id. #: \_\_\_\_\_

and irrevocably appoints: \_\_\_\_\_

as agent to transfer such Mandatory Convertible Preferred Stock on the books of the Company. The agent may substitute another to act for him/her.

Date: \_\_\_\_\_ (Legal Name of Holder)

By: \_\_\_\_\_

Name:

Title:

Signature Guaranteed:

\_\_\_\_\_  
Participant in a Recognized Signature  
Guarantee Medallion Program

By: \_\_\_\_\_

Authorized Signatory

\_\_\_\_\_  
<sup>1</sup> Must be a whole number.

FORM OF GLOBAL CERTIFICATE LEGEND

THIS IS A GLOBAL CERTIFICATE WITHIN THE MEANING OF THE CERTIFICATE OF DESIGNATIONS HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF THE DEPOSITARY OR A NOMINEE OF THE DEPOSITARY, WHICH MAY BE TREATED BY THE COMPANY, THE TRANSFER AGENT AND ANY AGENT THEREOF AS THE OWNER AND HOLDER OF THE MANDATORY CONVERTIBLE PREFERRED STOCK REPRESENTED BY THIS GLOBAL CERTIFICATE FOR ALL PURPOSES.

UNLESS THIS GLOBAL CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITARY TRUST COMPANY ("DTC") TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT HEREON IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL SINCE THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

TRANSFERS OF THE MANDATORY CONVERTIBLE PREFERRED STOCK REPRESENTED BY THIS GLOBAL CERTIFICATE WILL BE LIMITED TO TRANSFERS IN WHOLE, BUT NOT IN PART, TO NOMINEES OF DTC, OR TO A SUCCESSOR THEREOF OR SUCH SUCCESSOR'S NOMINEE, AND TRANSFERS OF PORTIONS OF THE MANDATORY CONVERTIBLE PREFERRED STOCK REPRESENTED BY THIS GLOBAL CERTIFICATE WILL BE LIMITED TO TRANSFERS MADE IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN SECTION 3(h) OF THE CERTIFICATE OF DESIGNATIONS HEREINAFTER REFERRED TO.

KIRKLAND & ELLIS LLP  
AND AFFILIATED PARTNERSHIPS

601 Lexington Avenue  
New York, NY 10022  
United States

+1 212 446 4800

www.kirkland.com

September 24, 2021

Facsimile:  
+1 212 446 4900

RBC Bearings Incorporated  
One Tribology Center  
102 Willenbrock Road  
Oxford, Connecticut 06478

Re: Public Offering of RBC Bearings Incorporated

Ladies and Gentlemen:

We have examined the Registration Statement on Form S-3 (as amended or supplemented, the "Registration Statement") filed with the Securities and Exchange Commission (the "Commission") on September 20, 2021 under the Securities Act of 1933, as amended (the "Securities Act"), by RBC Bearings Incorporated (the "Company"). The Registration Statement relates to the offer and sale from time to time, pursuant to Rule 415 of the General Rules and Regulations promulgated under the Securities Act, of (i) an unspecified number of shares of common stock, par value \$0.01 per share, of the Company (the "Common Stock") and (ii) an unspecified number of shares of preferred stock, par value \$0.01 per share, of the Company, which may be convertible into shares of Common Stock (the "Preferred Stock").

Pursuant to the Registration Statement, the Company has proposed to issue and sell (i) 3,000,000 shares of Common Stock (the "Firm Common Shares") and an additional 450,000 shares of Common Stock (the "Option Common Shares" and, together with the Firm Common Shares, the "Common Shares") to cover the exercise of the Underwriters' (as defined below) option to purchase additional shares of Common Stock, all of which are to be sold to the Underwriters pursuant to that certain Underwriting Agreement, dated as of September 21, 2021 (the "Common Shares Underwriting Agreement"), between the Company and Goldman Sachs & Co. LLC, as representative of the several underwriters named in Schedule I thereto (the "Underwriters"); and (ii) 4,000,000 shares of the Company's 5.00% Series A Mandatory Convertible Preferred Stock, par value \$0.01 per share (the "Firm Mandatory Convertible Preferred Shares"), and an additional 600,000 shares of the Company's 5.00% Series A Mandatory Convertible Preferred Stock (the "Option Mandatory Convertible Preferred Shares" and, together with the Firm Mandatory Convertible Preferred Shares, the "Mandatory Convertible Preferred Shares"; such Mandatory Convertible Preferred Shares, together with the Common Shares, the "Securities") to cover the exercise of the Preferred Underwriters' (as defined below) option to purchase additional shares of 5.00% Series A Mandatory Convertible Preferred Stock, all of which are to be sold to the Preferred Underwriters pursuant to that certain Underwriting Agreement, dated as of September 21, 2021 (the "Mandatory Convertible Preferred Shares Underwriting Agreement" and, together with the Common Shares Underwriting Agreement, the "Underwriting Agreements"), between the Company and Goldman Sachs & Co. LLC, as representative of the several underwriters named in Schedule I thereto (the "Preferred Underwriters"). The Mandatory Convertible Preferred Shares are convertible into shares of Common Stock pursuant to the certificate of designations (the "Certificate of Designations") establishing the terms of the Mandatory Convertible Preferred Stock filed with the Secretary of State of the State of Delaware on the date hereof.

Austin Bay Area Beijing Boston Brussels Chicago Dallas Hong Kong Houston London Los Angeles Munich Paris Shanghai Washington, D.C.

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# KIRKLAND & ELLIS LLP

RBC Bearings Incorporated  
September 24, 2021  
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In connection with this opinion and the registration, issuance and sale of the Securities, we have examined originals, or copies certified or otherwise identified to our satisfaction, of such documents, corporate records and other instruments as we have deemed necessary for the purposes of this opinion, including (i) the corporate and organizational documents of the Company, (ii) minutes and records of the corporate proceedings of the Company, including the Board of Directors of the Company, with respect to the registration, issuance and sale of the Securities, (iii) the Registration Statement and the exhibits thereto, (iv) the base prospectus, dated September 20, 2021, filed with the Registration Statement relating to the offering of the Securities, (v) the preliminary prospectus supplement, dated September 20, 2021, in the form filed with the Commission pursuant to Rule 424(b) of the Securities Act relating to the offering of the Common Shares (the "Common Shares Preliminary Prospectus Supplement"), (vi) the preliminary prospectus supplement, dated September 20, 2021, in the form filed with the Commission pursuant to Rule 424(b) of the Securities Act relating to the offering of the Mandatory Convertible Preferred Shares (the "Mandatory Convertible Preferred Shares Preliminary Prospectus Supplement" and, together with the Common Shares Preliminary Prospectus Supplement, the "Preliminary Prospectus Supplements"), (vii) the final prospectus supplement, dated September 21, 2021, in the form filed with the Commission pursuant to Rule 424(b) of the Securities Act relating to the offering of the Common Shares (the "Common Shares Final Prospectus Supplement"), (viii) the final prospectus supplement, dated September 21, 2021, in the form filed with the Commission pursuant to Rule 424(b) of the Securities Act relating to the offering of the Mandatory Convertible Preferred Shares (the "Mandatory Convertible Preferred Shares Final Prospectus Supplement" and, together with the Common Shares Final Prospectus Supplement and the Preliminary Prospectus Supplements, the "Prospectus Supplements"), (ix) the Underwriting Agreements and (x) the Certificate of Designations.

For purposes of this opinion, we have assumed the authenticity of all documents submitted to us as originals, the conformity to the originals of all documents submitted to us as copies and the authenticity of the originals of all documents submitted to us as copies. We have also assumed the legal capacity of all natural persons, the genuineness of the signatures of persons signing all documents in connection with which this opinion is rendered, the authority of such persons signing on behalf of the parties thereto other than the Company and the due authorization, execution and delivery of all documents by the parties thereto other than the Company. We have not independently established or verified any facts relevant to the opinions expressed herein, but have relied upon statements and representations of the officers and other representatives of the Company.

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# KIRKLAND & ELLIS LLP

RBC Bearings Incorporated  
September 24, 2021  
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Based upon and subject to the foregoing qualifications, assumptions and limitations and the further limitations set forth herein, we are of the opinion that:

1. The Securities are duly authorized, and when the Securities are registered by the Company's transfer agent and delivered against payment of the agreed consideration therefor, all in accordance with the Underwriting Agreements, the Securities will be validly issued, fully paid and non-assessable; and
2. When the shares of Common Stock initially issuable pursuant to the Certificate of Designations upon conversion of the Mandatory Convertible Preferred Shares have been issued and delivered by the Company in accordance with the Certificate of Designations and the terms of the Mandatory Convertible Preferred Shares, the shares of Common Stock will be validly issued, fully paid and non-assessable.

Our advice on every legal issue addressed in this letter is based exclusively on the federal securities laws of the United States and the General Corporation Law of the State of Delaware (including the applicable provisions of the Delaware constitution and reported judicial decisions interpreting these laws), in each case as currently in effect, and represents our opinion as to how that issue would be resolved were it to be considered by the highest court in the jurisdiction which enacted such law. The manner in which any particular issue relating to the opinions would be treated in any actual court case would depend in part on facts and circumstances particular to the case and would also depend on how the court involved chose to exercise the wide discretionary authority generally available to it. This letter is not intended to guarantee the outcome of any legal dispute which may arise in the future.

We did not find it necessary for the purposes of this opinion, and accordingly we do not purport to cover herein, the application of the securities or "Blue Sky" laws of the various states to the sale of the Securities.

This opinion is limited to the specific issues addressed herein, and no opinion may be inferred or implied beyond that expressly stated herein. We assume no obligation to revise or supplement this opinion should the present federal securities laws of the United States or the General Corporation Law of the State of Delaware be changed by legislative action, judicial decision or otherwise after the date hereof.

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# KIRKLAND & ELLIS LLP

RBC Bearings Incorporated  
September 24, 2021  
Page 4

This opinion is furnished to you in connection with the filing of the Company's Current Report on Form 8-K, which is incorporated by reference into the Registration Statement, and in accordance with the requirements of Item 601(b)(5) of Regulation S-K promulgated under the Securities Act, and is not to be used, circulated, quoted or otherwise relied upon or otherwise referred to by any other person for any other purpose. No opinion is expressed herein as to any matter pertaining to the contents of the Registration Statement, other than as to the specific issues addressed herein, and no opinion may be inferred or implied beyond that expressly stated herein.

We hereby consent to the filing of this opinion with the Commission as Exhibit 5.1 to the Company's Current Report on Form 8-K and its incorporation into the Registration Statement. We also consent to the reference to our firm under the heading "Legal Matters" in the Prospectus Supplements constituting part of the Registration Statement. In giving this consent, we do not thereby admit that we are in the category of persons whose consent is required under Section 7 of the Securities Act or the rules and regulations of the Commission.

Sincerely,

/s/ Kirkland & Ellis LLP

KIRKLAND & ELLIS LLP

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AMENDMENT NO. 2

AMENDMENT NO. 2 , dated as of September 21, 2021 (this “**Amendment**”), among **ROLLER BEARING COMPANY OF AMERICA, INC.**, a Delaware corporation (the “**Borrower**”), **RBC BEARINGS INCORPORATED**, a Delaware corporation (“**Holdings**”), the other Credit Parties, the Lenders party hereto and **WELLS FARGO BANK, NATIONAL ASSOCIATION**, as administrative agent for the Lenders (in such capacity, the “**Administrative Agent**”), to the Credit Agreement dated as of April 24, 2015 (as amended by that certain Amendment No. 1 dated as of January 31, 2019 and as otherwise amended, restated, amended and restated or otherwise modified from time to time prior to the date hereof, the “**Credit Agreement**”), by and among the Borrower, Holdings, the Administrative Agent, the Collateral Agent, the Swingline Lender, the Letter of Credit Issuer and the Lenders referred to therein. Capitalized terms used and not otherwise defined herein shall have the meanings assigned to them in the Credit Agreement.

WHEREAS, pursuant to the Stock and Asset Purchase Agreement (the “**Acquisition Agreement**”), dated as of July 24, 2021, by and between Holdings and ABB Asea Brown Boveri Ltd, a corporation organized under the laws of Switzerland (the “**Seller**”), Holdings, directly or indirectly, agreed to acquire the mechanical power transmission division of the Seller operated under the “Dodge” brand (the “**Pending Acquisition**”);

WHEREAS, the Borrower desires to amend the Credit Agreement to permit the issuance, incurrence and/or sale of (i) up to \$1.0 billion in aggregate liquidation preference of a newly created series of preferred stock of Holdings, expected to be titled Series A Mandatory Convertible Preferred Stock, plus an additional up to \$150 million in aggregate liquidation preference of Series A Mandatory Convertible Preferred Stock that the underwriters thereof may purchase (the “**Mandatory Convertible Preferred Stock**”) and (ii) up to \$600 million in aggregate principal amount of senior unsecured notes by the Borrower (the “**2021 Senior Unsecured Notes**”), which 2021 Senior Unsecured Notes may be guaranteed by Holdings and one or more of its subsidiaries, in each case the net proceeds of which shall be used, on the date of consummation of the Pending Acquisition, to pay a portion of the cash purchase price for the Pending Acquisition, to pay acquisition-related fees and expenses, and for other general corporate purposes;

NOW, THEREFORE, in consideration of the premises and covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound hereby, agree as follows:

**Section 1.** **Amendments.** Each party hereto agrees that, effective as of the Amendment No. 2 Effective Date (as defined below), the Credit Agreement is hereby amended as follows:

- (a) The following defined terms shall be added to Section 1.1 of the Credit Agreement in alphabetical order:
    - i. “**2021 Senior Unsecured Notes**” has the meaning specified in Amendment No. 2.
    - ii. “**Amendment No. 2**” shall mean Amendment No. 2 to this Agreement dated as of the Amendment No. 2 Effective Date.
    - iii. “**Amendment No. 2 Effective Date**” shall mean September 21, 2021.
    - iv. “**Amendment Reversal Trigger Event**” shall mean Holdings’ failure to consummate the Pending Acquisition pursuant to the Acquisition Agreement by January 26, 2022, or if earlier, the termination of Holdings’ (or its affiliate) obligation to consummate the Pending Acquisition pursuant to the Acquisition Agreement.
    - v. “**Mandatory Convertible Preferred Stock**” has the meaning specified in Amendment No. 2.
-



(b) The definition of “**Permitted Liens**” shall be amended by (i) removing the “and” at the end of section (35), (ii) removing the period at the end of section (36) and adding “; and” at the end of section (36) and (iii) adding the following section (37) immediately following section (36): “Pending consummation of the Pending Acquisition, liens securing the escrow proceeds of the 2021 Senior Unsecured Notes and Mandatory Convertible Preferred Stock permitted to be incurred pursuant to Section 10.1 clause (x) of the Credit Agreement; provided that, upon the occurrence of an Amendment Reversal Trigger Event, the incurrence of Liens on such proceeds shall not be permitted under this clause (37).”.

(c) Section 10.1 of the Credit Agreement is amended by (i) removing the “and” from the end of clause (v), (ii) adding “and” to the end of clause (w) and (iii) adding the following clause (x) immediately following clause (w):

“(x) the issuance, incurrence and/or sale of the (i) 2021 Senior Unsecured Notes in an aggregate principal amount not to exceed \$600,000,000 and (ii) the Mandatory Convertible Preferred Stock in an aggregate amount not to exceed \$1,150,000,000, in each case together with all premiums (if any), interest (including post-petition interest), dividends, accretion or amortization of original issue discount, fees, expenses, charges and additional or contingent interest on obligations thereunder; provided that, upon the occurrence of an Amendment Reversal Trigger Event, no 2021 Senior Unsecured Notes or Mandatory Convertible Preferred Stock shall be permitted under this clause (x).”

(d) Section 10.7 of the Credit Agreement is amended by adding the following proviso at the end thereof:

; provided further that, with respect to the Test Period ending September 30 2021, the Mandatory Convertible Preferred Stock shall not constitute Consolidated Total Debt when calculating the Consolidated Total Debt to Consolidated EBITDA Ratio.

**Section 2. Representations and Warranties.** The Credit Parties represent and warrant to the Lenders and the Administrative Agent as of the Amendment No. 2 Effective Date that:

(a) At the time of and immediately after giving effect to this Amendment, the representations and warranties set forth in the Credit Documents are true and correct in all material respects (or if qualified by “materiality,” “material adverse effect” or similar language, in all respects (after giving effect to such qualification) with the same effect as if made on the Amendment No. 2 Effective Date (except where such representations and warranties expressly relate to an earlier date, in which case such representations and warranties shall have been true and correct in all material respects as of such earlier date).

(b) At the time of and immediately after giving effect to this Amendment, no Default or Event of Default has occurred and is continuing.

**Section 3. Conditions to Effectiveness.** This Amendment shall become effective on the date (the “**Amendment No. 2 Effective Date**”) on which:

(a) the Administrative Agent (or its counsel) shall have received from the Credit Parties and Revolving Credit Lenders constituting the Required Lenders, a counterpart of this Amendment signed on behalf of each such party; and

(b) the representations and warranties set forth in Section 2 hereof shall be true and correct and the Administrative Agent shall have received a certificate of a responsible officer to such effect.

**Section 4. Fees and Expenses.** The Borrower agrees to reimburse the Administrative Agent for the reasonable and documented out-of-pocket expenses incurred by it in connection with this Amendment, including the reasonable and documented fees, charges and disbursements of Cahill Gordon & Reindel LLP, counsel for the Administrative Agent.

**Section 5.**                    **Counterparts.** This Amendment may be executed by one or more of the parties to this Amendment on any number of separate counterparts (including by facsimile or other electronic transmission), and all of said counterparts taken together shall be deemed to constitute one and the same instrument. The words “execution,” “execute,” “signed,” “signature,” and words of like import in or related to any document to be signed in connection with this Amendment and the transactions contemplated hereby 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 or enforceability as a manually executed signature or the use of a paper-based record keeping 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. A set of the copies of this Amendment signed by all the parties shall be lodged with the Borrower and the Administrative Agent.

**Section 6.**                    **Applicable Law.** THIS AMENDMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.

**Section 7.**                    **Headings.** The headings of this Amendment are for purposes of reference only and shall not limit or otherwise affect the meaning hereof.

**Section 8.**                    **Effect of Amendment.** On and after the effectiveness of this Amendment, each reference in the Credit Agreement to “this Credit Agreement”, “this Agreement”, “hereunder”, “hereof” or words of like import referring to the Credit Agreement, and each reference in the Notes and each of the other Credit Documents to “the Credit Agreement”, “thereunder”, “thereof” or words of like import referring to the Credit Agreement, shall mean and be a reference to the Credit Agreement, as amended or waived by this Amendment. The Credit Agreement, the Notes and each of the other Credit Documents, as specifically amended or waived by this Amendment, are and shall continue to be in full force and effect and are hereby in all respects ratified and confirmed. Except as expressly set forth herein, this Amendment shall not by implication or otherwise limit, impair, constitute a waiver of or otherwise affect the rights and remedies of the Lenders or the Administrative Agent under the Credit Agreement or any other Credit Document, and shall not alter, modify, amend or in any way affect any of the terms, conditions, obligations, covenants or agreements contained in the Credit Agreement or any other provision of the Credit Agreement or any other Credit Document, all of which are ratified and affirmed in all respects and shall continue in full force and effect. The parties hereto expressly acknowledge that it is not their intention that this Amendment or any of the other Credit Documents executed or delivered pursuant hereto constitute a novation of any of the obligations, covenants or agreements contained in the Credit Agreement or any other Credit Document, but rather constitute a modification thereof pursuant to the terms contained herein. This Amendment constitutes a Credit Document.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed as of the date first above written.

ROLLER BEARING COMPANY OF AMERICA, INC., as Borrower

By: /s/ Daniel A. Bergeron

Name: Daniel A. Bergeron

Title: Vice President and Chief Operating Officer

RBC BEARINGS INCORPORATED, as Holdings

By: /s/ Daniel A. Bergeron

Name: Daniel A. Bergeron

Title: Vice President and Chief Operating Officer

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WELLS FARGO BANK, N.A.  
as Administrative Agent and a Lender

By: /s/ Evan C. Ingwers  
Name: Evan C. Ingwers  
Title: Senior Vice President

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Bank of America, N.A., as a Lender

By: /s/ Timothy J. Waltman

Name: Timothy J. Waltman

Title: Vice President

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Citizens Bank, N.A., as a Lender

By: /s/ Chancellor Peterson

Name: Chancellor Peterson

Title: Senior Vice President

[Signature Page to Amendment No. 2]

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KeyBank National Association, as a Lender

By: /s/ Eric W. Domin

Name: Eric W. Domin

Title: VP

[Signature Page to Amendment No. 2]

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BMO Harris Bank N.A. as a Lender

By: /s/ Andrew Berryman

Name: Andrew Berryman

Title: Director

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Citigroup Global Markets Inc. as a Lender

By: /s/ Matthew Burke

Name: Matthew Burke

Title: Managing Director

If a second signature is necessary:

By: /s/ Massoma Ali

Name: Masooma Ali

Title: Vice President - Relationship Manager

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Truist Bank, as a Lender

By: /s/ David J. Sharp

Name: David J. Sharp

Title: Director

[Signature Page to Amendment No. 2]

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