

REFINITIV

DELTA REPORT

10-Q

BALL - BALL CORP

10-Q - SEPTEMBER 30, 2024 COMPARED TO 10-Q - JUNE 30, 2024

The following comparison report has been automatically generated

TOTAL DELTAS	1037
CHANGES	396
DELETIONS	137
ADDITIONS	504

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
WASHINGTON, DC 20549

FORM 10-Q

☒ **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the Quarterly Period Ended **June** **September** 30, 2024
or

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

Commission file number 001-07349

BALL CORPORATION

State of Indiana **35-0160610**
(State or other jurisdiction of incorporation or (I.R.S. Employer Identification No.)
organization)

9200 West 108th Circle **80021**
Westminster, CO (Zip Code)
(Address of registrant's principal executive office)

Registrant's telephone number, including area code: **303/469-3131**

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

Class	Trading	Name of	Outstanding at July 29, 2024 October 28,
	Symbol	Exchange	2024
Common Stock, without par value	BALL	NYSE	303,565,423 298,425,962 shares

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes ☒ No ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer ☒

Non-accelerated filer ☐

Accelerated filer ☐

Smaller reporting company ☐

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. ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ☐ No ☒

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Ball Corporation
QUARTERLY REPORT ON FORM 10-Q
For the period ended **June 30, 2024** **September 30, 2024**

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PART I. FINANCIAL INFORMATION

Item 1. FINANCIAL STATEMENTS

BALL CORPORATION

UNAUDITED CONDENSED CONSOLIDATED STATEMENTS OF EARNINGS

	Three Months Ended June		Six Months Ended June		Three Months Ended September		Nine Months Ended September	
	30,		30,		30,		30,	
(\$ in millions, except per share amounts)	2024	2023	2024	2023	2024	2023	2024	2023
Net sales	\$ 2,959	\$ 3,067	\$ 5,833	\$ 6,048	\$ 3,082	\$ 3,111	\$ 8,915	\$ 9,159
Cost of sales (excluding depreciation and amortization)	(2,357)	(2,506)	(4,640)	(4,938)	(2,425)	(2,512)	(7,065)	(7,450)
Depreciation and amortization	(152)	(150)	(310)	(297)	(150)	(152)	(460)	(449)
Selling, general and administrative	(139)	(157)	(376)	(276)	(142)	(133)	(518)	(409)
Business consolidation and other activities	(60)	6	(86)	(14)	(85)	(29)	(171)	(43)
Interest income	18	7	44	11	14	12	58	23
Interest expense	(68)	(116)	(161)	(229)	(67)	(122)	(228)	(351)
Debt refinancing and other costs	(1)	—	(3)	—	—	—	(3)	—
Earnings before taxes	200	151	301	305	227	175	528	480
Tax (provision) benefit	(49)	(29)	(76)	(62)	(42)	(45)	(118)	(107)
Equity in results of affiliates, net of tax	8	3	13	10	8	3	21	13
Earnings from continuing operations	159	125	238	253	193	133	431	386
Discontinued operations, net of tax	—	48	3,607	100	6	71	3,613	171
Net earnings	159	173	3,845	353	199	204	4,044	557
Net earnings attributable to noncontrolling interests	1	—	2	3	2	1	4	4
Net earnings attributable to Ball Corporation	\$ 158	\$ 173	\$ 3,843	\$ 350	\$ 197	\$ 203	\$ 4,040	\$ 553

Earnings per share:																
Basic - continuing operations	\$	0.51	\$	0.40	\$	0.76	\$	0.79	\$	0.63	\$	0.42	\$	1.38	\$	1.22
Basic - discontinued operations		—		0.15		11.55		0.32		0.02		0.22		11.70		0.54
Total basic earnings per share	\$	0.51	\$	0.55	\$	12.31	\$	1.11	\$	0.65	\$	0.64	\$	13.08	\$	1.76
Diluted - continuing operations	\$	0.51	\$	0.40	\$	0.75	\$	0.79	\$	0.63	\$	0.42	\$	1.37	\$	1.20
Diluted - discontinued operations		—		0.15		11.46		0.31		0.02		0.22		11.59		0.54
Total diluted earnings per share	\$	0.51	\$	0.55	\$	12.21	\$	1.10	\$	0.65	\$	0.64	\$	12.96	\$	1.74
Weighted average shares outstanding: (000s)																
Basic	309,269	314,561	312,109	314,400	302,406	314,983	308,851	314,596								
Diluted	311,964	316,867	314,690	316,764	305,219	317,296	311,674	316,938								

See accompanying notes to the unaudited condensed consolidated financial statements.

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BALL CORPORATION

UNAUDITED CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE EARNINGS (LOSS)

(\$ in millions)					Three Months		Nine Months	
					Ended		Ended	
	Three Months Ended June 30,		Six Months Ended June 30,		September 30,		September 30,	
	2024	2023	2024	2023	2024	2023	2024	2023
Net earnings	\$ 159	\$ 173	\$ 3,845	\$ 353	\$199	\$204	\$4,044	\$557
Other comprehensive earnings (loss):								
Currency translation adjustment	(52)	38	(139)	58	43	(40)	(96)	18
Pension and other postretirement benefits	7	8	148	9	(14)	(1)	134	8
Derivatives designated as hedges	25	15	33	44	(39)	(30)	(6)	14
Total other comprehensive earnings (loss)	(20)	61	42	111	(10)	(71)	32	40
Income tax (provision) benefit	(8)	(6)	(47)	(14)				
Tax (provision) benefit					19	11	(28)	(3)
Total other comprehensive earnings (loss), net of tax	(28)	55	(5)	97	9	(60)	4	37
Total comprehensive earnings	131	228	3,840	450	208	144	4,048	594
Comprehensive earnings attributable to noncontrolling interests	1	—	2	3	2	1	4	4
Comprehensive earnings attributable to Ball Corporation	\$ 130	\$ 228	\$ 3,838	\$ 447	\$206	\$143	\$4,044	\$590

See accompanying notes to the unaudited condensed consolidated financial statements.

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BALL CORPORATION
UNAUDITED CONDENSED CONSOLIDATED BALANCE SHEETS

	June 30,	December 31,	September 30,	December 31,
(\$ in millions)	2024	2023	2024	2023
Assets				
Current assets				
Cash and cash equivalents	\$ 1,346	\$ 695	\$ 1,440	\$ 695
Receivables, net	2,711	2,057	2,655	2,057
Inventories, net	1,426	1,531	1,385	1,531
Other current assets	229	231	113	231
Current assets held for sale	40	369	14	369
Total current assets	5,752	4,883	5,607	4,883
Noncurrent assets				
Property, plant and equipment, net	6,547	6,715	6,550	6,715
Goodwill	4,190	4,250	4,244	4,250
Intangible assets, net	1,159	1,248	1,138	1,248
Other assets	1,313	1,354	1,285	1,354
Noncurrent assets held for sale	—	853	—	853
Total assets	\$ 18,961	\$ 19,303	\$ 18,824	\$ 19,303
Liabilities and Equity				
Current liabilities				
Short-term debt and current portion of long-term debt	\$ 276	\$ 1,065	\$ 452	\$ 1,065
Accounts payable	3,174	3,661	3,261	3,661
Accrued employee costs	266	245	308	245
Other current liabilities	1,173	779	1,103	779
Current liabilities held for sale	—	435	—	435
Total current liabilities	4,889	6,185	5,124	6,185
Noncurrent liabilities				
Long-term debt	5,517	7,504	5,353	7,504
Employee benefit obligations	624	735	630	735
Deferred taxes	590	421	592	421
Other liabilities	358	384	370	384
Noncurrent liabilities held for sale	—	237	—	237
Total liabilities	11,978	15,466	12,069	15,466
Equity				
Common stock (683,801,066 shares issued - 2024; 683,241,401 shares issued - 2023)	1,370	1,312		

Common stock (684,049,413 shares issued - 2024; 683,241,401 shares issued - 2023)			1,384	1,312
Retained earnings	11,481	7,763	11,618	7,763
Accumulated other comprehensive earnings (loss)	(921)	(916)	(912)	(916)
Treasury stock, at cost (377,841,387 shares - 2024; 367,551,366 shares - 2023)	(5,017)	(4,390)		
Treasury stock, at cost (384,006,576 shares - 2024; 367,551,366 shares - 2023)			(5,407)	(4,390)
Total Ball Corporation shareholders' equity	6,913	3,769	6,683	3,769
Noncontrolling interests	70	68	72	68
Total equity	6,983	3,837	6,755	3,837
Total liabilities and equity	\$ 18,961	\$ 19,303	\$ 18,824	\$19,303

See accompanying notes to the unaudited condensed consolidated financial statements.

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BALL CORPORATION
UNAUDITED CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS

(\$ in millions)	Six Months Ended June 30,		Nine Months Ended September 30,	
	2024	2023	2024	2023
Cash Flows from Operating Activities				
Net earnings	\$ 3,845	\$ 353	\$ 4,044	\$ 557
Adjustments to reconcile net earnings to cash provided by (used in) operating activities:				
Depreciation and amortization	319	336	469	509
Business consolidation and other activities	86	14	171	43
Deferred tax provision (benefit)	185	(23)	201	(87)
Gain on Aerospace disposal	(4,695)	—	(4,694)	18
Pension contributions	(15)	(9)	(24)	(13)
Other, net	23	15	78	71
Changes in working capital components, net of dispositions	(743)	(325)	(630)	29
Cash provided by (used in) operating activities	(995)	361	(385)	1,127
Cash Flows from Investing Activities				
Capital expenditures	(260)	(608)	(377)	(830)
Business dispositions, net of cash sold	5,422	—	5,422	—
Other, net	42	4	136	4
Cash provided by (used in) investing activities	5,204	(604)	5,181	(826)
Cash Flows from Financing Activities				
Long-term borrowings	450	1,700	450	1,700
Repayments of long-term borrowings	(3,278)	(902)	(3,279)	(913)
Net change in short-term borrowings	99	(42)	51	(135)
Acquisitions of treasury stock	(665)	(3)	(1,061)	(3)
Common stock dividends	(125)	(126)	(185)	(189)

Other, net	23	17	26	30
Cash provided by (used in) financing activities	(3,496)	644	(3,998)	490
Effect of exchange rate changes on cash	(75)	9	(64)	—
Change in cash, cash equivalents and restricted cash	638	410	734	791
Cash, cash equivalents and restricted cash - beginning of period	710	558	710	558
Cash, cash equivalents and restricted cash - end of period	\$ 1,348	\$ 968	\$ 1,444	\$ 1,349

See accompanying notes to the unaudited condensed consolidated financial statements.

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Ball Corporation

Notes to the Unaudited Condensed Consolidated Financial Statements

1. Basis of Presentation

The accompanying unaudited condensed consolidated financial statements (consolidated financial statements) include the accounts of Ball Corporation and its controlled affiliates, including its consolidated variable interest entities (collectively Ball, the company, we or our), and have been prepared by the company. Certain information and footnote disclosures, including critical and significant accounting policies normally included in consolidated financial statements prepared in accordance with generally accepted accounting principles, have been condensed or omitted for this quarterly presentation.

Results of operations for the periods shown are not necessarily indicative of results for the year, particularly in view of the seasonality in the packaging segments. These consolidated financial statements and accompanying notes should be read in conjunction with the consolidated financial statements and the notes thereto included in the company's 2023 Annual Report on Form 10-K filed on February 20, 2024, pursuant to the Securities Exchange Act of 1934 for the fiscal year ended December 31, 2023 (annual report).

The preparation of consolidated financial statements in conformity with accounting principles generally accepted in the United States of America (U.S. GAAP) requires Ball's management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent liabilities at the date of the consolidated financial statements and reported amounts of revenues and expenses during the reporting periods. These estimates are based on historical experience and various assumptions believed to be reasonable under the circumstances. Ball's management evaluates these estimates on an ongoing basis and adjusts or revises the estimates as circumstances change. As future events and their impacts cannot be determined with precision, actual results may differ from these estimates. In the opinion of management, the consolidated financial statements reflect all adjustments that are of a normal recurring nature and are necessary to fairly state the results of the periods presented.

On February 16, 2024, the company completed the divestiture of its aerospace business. The transaction represents a strategic shift; therefore, the company's consolidated financial statements reflect the aerospace business' financial results as discontinued operations for all periods presented. The aerospace business was historically presented as a reportable segment. Effective as of the first quarter of 2024, the company reports its financial performance in three reportable segments: (1) beverage packaging, North and Central America; (2) beverage packaging, Europe, Middle East and Africa (beverage packaging, EMEA) and (3) beverage packaging, South America. See [Note 3](#) for additional segment information.

Unless otherwise specified, these notes to the unaudited condensed consolidated financial statements reflect continuing operations only.

Certain prior year amounts, including amounts related to discontinued operations, have been reclassified in order to conform to the current year presentation. See [Note 4](#) for additional discontinued operations information.

Risks and Uncertainties

Global Economic Environment

Recent data has indicated continued high inflation in the regions where we operate. Current and future inflationary effects may continue to be impacted by, among other things, supply chain disruptions, governmental stimulus or fiscal and monetary policies, changes in interest rates, and changing demand for certain goods and services. We cannot predict with any certainty the impact that **rising** interest rates, a global or any regional recession, or higher inflation may have on our customers or suppliers. Additionally, we are unable to predict the potential effects that any future pandemic, or the continuation or escalation of global conflicts, including the conflict between Russia and Ukraine and the rising instability in the Middle East and **Myanmar, and** related sanctions or market disruptions, may have on our business. It remains uncertain how long any of these conditions may last or how severe any of them may become.

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Notes to the Unaudited Condensed Consolidated Financial Statements

Ball management has reviewed the estimates used in preparing the company's consolidated financial statements and the following have a reasonably possible likelihood of being affected, to a material extent, by the direct and indirect impacts of the current global economic environment in the near-term.

- Estimates regarding the future financial performance of the business used in the impairment tests for goodwill, long-lived assets, equity method investments, recoverability of deferred tax assets and estimates regarding cash needs and associated indefinite reinvestment assertions;
- Estimates of recoverability for customer receivables;
- Estimates of net realizable value for inventory; and
- Estimates regarding the likelihood of forecasted transactions associated with hedge accounting positions at **June 30, 2024** **September 30, 2024**, which could impact the company's ability to satisfy hedge accounting requirements and result in the recognition of income and/or expenses.

In addition to the above potential impacts on the estimates used in preparing the consolidated financial statements, the current global economic environment has the potential to increase Ball's vulnerabilities to near-term severe impacts related to certain concentrations in its business. In line with other companies in the packaging industry, Ball makes the majority of its sales and significant purchases to or from a relatively small number of global, or large regional, customers and suppliers. Furthermore, Ball makes the majority of its sales from a small number of product lines. The potential of the current global economic environment to affect a significant customer or supplier, or to affect demand for certain products to a significant degree, heightens the vulnerability of Ball to these concentrations.

Argentina

Although Ball's functional currency in Argentina is the U.S. dollar, a portion of its transactions are denominated in pesos. During the fourth quarter of 2023, Argentina suddenly devalued its peso relative to the U.S. dollar as one of the economic policies implemented by the new government with the goal of stabilizing and growing the economy. The government has implemented additional policies with the same goal in mind, including additional taxes on the importation of certain goods. The currency devaluation, economic conditions and policies in Argentina make it difficult to manage currency exchange rate risk and may lead to additional adverse effects on the company's results of operations. Ball's Argentinean business is presented in its beverage packaging, South America, reportable operating segment. Ball's peso-denominated net monetary assets in Argentina were approximately **\$9 million** **\$6 million** at **June 30, 2024** **September 30, 2024**. As of **June 30, 2024** **September 30, 2024**, Ball's Argentinean business had net asset exposure of **\$384 million** **\$388 million**, which consisted primarily of working capital and property, plant and equipment.

Aluminum Cups

The Ball Aluminum Cups business was launched during 2019 to serve the growing demand for innovative, sustainable beverage packaging among customers and consumers. The aluminum cups business has allowed us to use our years of experience and specialized expertise to serve an unmet need with an environmentally friendly addition to our portfolio of aluminum packages. At this time, the growth of this business has not been at the level we initially expected. As a result, the company is currently evaluating various options for this business. If the company decides to pursue a different path, it could present a risk of future impairment loss.

As of September 30, 2024, the Ball Aluminum Cups business had net assets of \$213 million, which consisted primarily of working capital and property, plant and equipment. The business, which is a non-reportable operating segment, represented less than one percent of the company's total net sales for the nine months ended September 30, 2024.

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Ball Corporation

Notes to the Unaudited Condensed Consolidated Financial Statements

2. Accounting Pronouncements

Recently Adopted Accounting Standards

Supplier Finance Programs

In 2022, new guidance was issued by the Financial Accounting Standards Board (FASB) with the goal of enhancing transparency around supplier finance programs. On January 1, 2023, Ball adopted all required disclosures effective for 2023, on a retrospective basis. The company will adopt the rollforward disclosure requirements, on a prospective basis, in its 2024 annual report.

The company has several regional supplier finance programs, all of which have substantially similar characteristics, with various financial institutions that act as the paying agent for certain payables of the company. The company establishes these programs through agreements with the financial institutions to enable more efficient payment processing to our suppliers while also providing our suppliers a potential source of liquidity to the extent they enter into a factoring agreement with the financial institutions. Our suppliers' participation in the programs is voluntary, and the company is not involved in negotiations of the suppliers' arrangements with the financial institutions to sell their receivables, and our rights and obligations to our suppliers are not impacted by our suppliers' decisions to sell amounts under these programs. Under these supplier finance programs, the company pays the financial institutions the stated amount of confirmed invoices from its participating suppliers on the original maturity dates of the invoices, which vary based on the negotiated terms with each supplier. All payment terms are short-term in nature and are not dependent on whether the suppliers participate in the supplier finance programs or if the suppliers elect to receive early payment from the financial

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institutions. Our supplier finance programs do not include any of the following: guarantees to the financial institutions, assets pledged as securities or interest accruing on the obligation prior to the due date.

Based on the review of the facts and circumstances of our supplier finance programs, including but not limited to those noted above, the company has concluded that the characteristics of the obligations due under our supplier finance programs have not changed and remain those of standard accounts payable, rather than indicative of debt.

The amount of obligations outstanding that the company confirmed as valid to the financial institutions under the company's programs was \$515 million \$432 million and \$703 million at June 30, 2024 September 30, 2024 and December 31, 2023, respectively. These amounts are classified within accounts payable on in the unaudited condensed consolidated balance sheets, and the associated payments are reflected in the cash flows from operating activities section of the unaudited condensed consolidated statements of cash flows.

New Accounting Guidance and Disclosure Requirements

Climate Disclosures

In 2024, the Securities and Exchange Commission (SEC) adopted final rules to require disclosures about material climate-related risks, the actual and potential impact of the risks and additional related disclosures. The final rules are currently under a stay by the SEC and the effective dates for the rules are uncertain. The company is continuing to assess the impact that the adoption of this new guidance will have on its consolidated financial statements and expects to meet the disclosure requirements on a prospective basis when the rules become effective for Ball.

Income Tax Disclosures

In 2023, new guidance was issued by the FASB with the goal of providing financial statement users with more information in the income tax rate reconciliation table and regarding income taxes paid. The company is assessing the impact that the adoption of this new guidance will have on its consolidated financial statements and expects to meet the disclosure requirements on a prospective basis in its 2025 annual report.

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Notes to the Unaudited Condensed Consolidated Financial Statements

Segment Reporting

In 2023, new guidance was issued by the FASB with the goal of providing financial statement users with more information about reportable segments, including more disaggregated expense information. The company is assessing the impact that the adoption of this new guidance will have on its consolidated financial statements and expects to meet the disclosure requirements on a retrospective basis in its 2024 annual report and interim periods thereafter.

3. Business Segment Information

Ball's operations are organized and reviewed by management along its product lines and geographical areas and presented in the three reportable segments outlined below.

Beverage packaging, North and Central America: Consists of operations in the U.S., Canada and Mexico that manufacture and sell aluminum beverage containers throughout those countries.

Beverage packaging, EMEA: Consists of operations in numerous countries throughout Europe, as well as Egypt and Turkey, that manufacture and sell aluminum beverage containers throughout those countries.

Beverage packaging, South America: Consists of operations in Brazil, Argentina, Paraguay and Chile that manufacture and sell aluminum beverage containers throughout most of South America.

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Notes to the Unaudited Condensed Consolidated Financial Statements

As presented in the table below, Other consists of a non-reportable operating segment (beverage packaging, other) that manufactures and sells aluminum beverage containers in India, Saudi Arabia and Myanmar; a non-reportable operating segment that manufactures and sells extruded aluminum aerosol containers and recloseable aluminum bottles across multiple consumer categories as well as aluminum slugs (aerosol packaging) throughout North America, South America, Europe, and Asia; a non-reportable operating segment that manufactures and sells aluminum cups (aluminum cups); undistributed corporate expenses; and intercompany eliminations and other business activities.

The accounting policies of the segments are the same as those used in the consolidated financial statements, as discussed in [Note 1](#). The company also has investments in operations in Guatemala, Panama, the U.S. and Vietnam that are accounted for under the equity method of accounting and, accordingly, those results are not included in segment sales or earnings.

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Notes to the Unaudited Condensed Consolidated Financial Statements

Summary of Business by Segment

(\$ in millions)	Three Months Ended June 30,		Six Months Ended June 30,		Three Months Ended September 30,		Nine Months Ended September 30,	
	2024	2023	2024	2023	2024	2023	2024	2023
Net sales								
Beverage packaging, North and Central America	\$ 1,469	\$ 1,537	\$ 2,872	\$ 3,041	\$ 1,456	\$ 1,541	\$ 4,328	\$ 4,582
Beverage packaging, EMEA	880	920	1,690	1,754	950	902	2,640	2,656

Beverage packaging, South America	422	405	904	855	484	489	1,388	1,344
Reportable segment sales	2,771	2,862	5,466	5,650	2,890	2,932	8,356	8,582
Other	188	205	367	398	192	179	559	577
Net sales	\$ 2,959	\$ 3,067	\$ 5,833	\$ 6,048	\$ 3,082	\$ 3,111	\$ 8,915	\$ 9,159
Comparable segment operating earnings								
Beverage packaging, North America and Central America	\$ 210	\$ 175	\$ 402	\$ 358	\$ 203	\$ 196	\$ 605	\$ 554
Beverage packaging, EMEA	113	98	198	171	128	103	326	274
Beverage packaging, South America	37	30	92	80	78	61	170	141
Reportable segment comparable operating earnings	360	303	692	609	409	360	1,101	969
Reconciling items								
Other (a)	2	(8)	(70)	7	4	—	(66)	7
Business consolidation and other activities	(60)	6	(86)	(14)	(85)	(29)	(171)	(43)
Amortization of acquired intangibles	(33)	(34)	(71)	(68)	(34)	(34)	(105)	(102)
Interest expense	(68)	(116)	(161)	(229)	(67)	(122)	(228)	(351)
Debt refinancing and other costs	(1)	—	(3)	—	—	—	(3)	—
Earnings before taxes	\$ 200	\$ 151	\$ 301	\$ 305	\$ 227	\$ 175	\$ 528	\$ 480

(a) Includes undistributed corporate expenses, net, of \$21.32 million and \$32.18 million for the three months ended June 30, 2024 September 30, 2024 and 2023, respectively, and \$117.149 million and \$42.60 million for the six nine months ended June 30, 2024 September 30, 2024 and 2023, respectively. For the three and six nine months ended June 30, 2024 September 30, 2024, undistributed corporate expenses, net, include \$3 million and includes \$82 million of incremental compensation cost from the successful sale of the aerospace business consisting of cash bonuses and stock based compensation, respectively, compensation. For the three and six nine months ended June 30, 2024 September 30, 2024, undistributed corporate expenses, net, also include \$12.7 million and \$29.36 million of corporate interest income, respectively.

The company does not disclose total assets by segment as such information is not provided to the chief operating decision maker.

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4. Acquisitions and Dispositions

Aerospace

In the third quarter of 2023, Ball entered into a Stock Purchase Agreement (Agreement) with BAE Systems, Inc. (BAE) and, for the limited purposes set forth therein, BAE Systems plc, to sell all outstanding equity interests in Ball's aerospace business. On February 16, 2024, the company completed the divestiture of the aerospace business for a purchase price of \$5.6 billion, subject to working capital adjustments and other customary closing adjustments under the terms of the Agreement. The company is in the process of finalizing the working capital adjustments and other customary closing adjustments with BAE, which is currently expected to be completed in 2024 and may adjust the final cash proceeds and gain on sale amounts. The divestiture resulted in a pre-tax gain of \$4.67 billion, which is net of \$20 million of costs to sell incurred and paid in 2023 related to the disposal. Cash proceeds received at close from the sale of \$5.42 billion, net of the cash disposed, are presented in business dispositions, net of cash sold, in the unaudited condensed consolidated statement of cash flows for the **six nine** months ended **June 30, 2024** **September 30, 2024**. The company expects to pay approximately **\$1.00 billion** **\$950 million** in income taxes related to the transaction throughout 2024, of which **\$461 million** **\$484 million** has been paid as of **June 30, 2024** **September 30, 2024**. The remaining amount of income taxes related to the transaction is recorded in other

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Notes to the Unaudited Condensed Consolidated Financial Statements

current liabilities in the unaudited condensed consolidated balance sheet. Additionally, the completion of the divestiture resulted in the removal of the aerospace business from the company's obligor group, as the business no longer guarantees the company's senior notes and senior credit facilities.

The sale of the aerospace business represents a strategic shift that will have a major effect on Ball's operations and financial results, including the removal of the aerospace reportable segment. Due to this shift, for all periods presented, the consolidated financial statements reflect the aerospace business' financial results as discontinued operations in the unaudited condensed consolidated statements of earnings, and its assets and liabilities are presented as assets and liabilities held for sale in the unaudited condensed consolidated balance sheet as of December 31, 2023. See [Note 1](#) for further information on the basis of presentation.

The following table presents components of discontinued operations, net of tax for the three and **six nine** months ended **June 30, 2024** **September 30, 2024** and 2023:

(\$ in millions)	Three Months Ended June		Six Months Ended June		Three Months Ended September		Nine Months Ended September	
	30,		30,		30,		30,	
	2024	2023	2024	2023	2024	2023	2024	2023
Net sales	\$ —	\$ 499	\$ 261	\$ 1,007	\$ —	\$ 460	\$ 261	\$ 1,467
Cost of sales (excluding depreciation and amortization)	—	(410)	(214)	(823)	—	(382)	(214)	(1,205)
Depreciation and amortization	—	(20)	(9)	(39)	—	(21)	(9)	(60)
Selling, general and administrative	—	(15)	(11)	(31)	—	(11)	(11)	(42)
Interest expense	—	1	—	1	—	—	—	1

Gain on disposition	—	—	4,695	—				
Gain (loss) on disposition					(1)	(18)	4,694	(18)
Tax (provision) benefit	—	(7)	(1,115)	(15)	7	43	(1,108)	28
Discontinued operations, net of tax	\$ —	\$ 48	\$ 3,607	\$ 100	\$ 6	\$ 71	\$ 3,613	\$ 171

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The following table presents assets and liabilities that are classified as held for sale on in the unaudited condensed consolidated balance sheet as of December 31, 2023:

(\$ in millions)	December 31, 2023
Assets	
Current assets	
Receivables, net	\$ 277
Other current assets	56
Total current assets	333
Noncurrent assets	
Property, plant and equipment, net	665
Other assets	188
Total assets of discontinued operations	\$ 1,186
Liabilities	
Current liabilities	
Accounts payable	\$ 92
Accrued employee costs	88
Deferred revenue	221
Other current liabilities	34
Total current liabilities	435
Noncurrent liabilities	
Employee benefit obligations	163
Other liabilities	74
Total liabilities of discontinued operations	\$ 672

The following table presents depreciation and amortization, capital expenditures and significant operating and investing noncash items from discontinued operations for the six nine months ended June 30, 2024 September 30, 2024 and 2023 included within the consolidated statements of cash flows. Amounts include adjustments to reconcile net earnings to cash provided by (used in) operating activities:

(\$ in millions)	Six Months Ended June 30,		Nine Months Ended September 30,	
	2024	2023	2024	2023
Provided by (used in)				
Depreciation and amortization	\$ 9	\$ 39	\$ 9	\$ 60
Gain on Aerospace disposal	(4,695)	—	(4,694)	18
Capital expenditures	(13)	(49)	(13)	(75)

Noncash investing activities include the acquisition of property, plant and equipment (PP&E) for which payment has not been made. These noncash capital expenditures are excluded from the consolidated statements of cash flows. A summary of the PP&E acquired but not yet paid for from discontinued operations is as follows:

(\$ in millions)	Six Months Ended June 30,		Nine Months Ended September 30,	
	2024	2023	2024	2023
Supplemental cash flow information:				
PP&E acquired but not yet paid	\$ 17	\$ 21	\$ 17	\$ 18

Aerosol Packaging

In late-October 2024, the company acquired the entire share capital of Alucan Entec, S.A, an impact extruded aluminum packaging business with a manufacturing facility in Lummen, Belgium and Llinars del Vallés, Spain, for the purchase price of €82 million, subject to customary closing adjustments. Using the exchange rate on the date of close, the initial

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cash consideration of \$80 million (or €75 million) was paid at close, with an additional \$8 million (or €7 million) to be paid over the next four years, less any potential obligations covered by the holdback arrangement. The business is part of Ball's aerosol packaging operating segment. The transaction broadens the geographic reach and expands the product portfolio of Ball's aerosol packaging business, serving the growing personal, home care and beverage bottle markets.

5. Revenue from Contracts with Customers

The following table disaggregates the company's net sales based on the timing of transfer of control:

(\$ in millions)	Three Months Ended June 30,			Six Months Ended June 30,			Three Months Ended September 30,			Nine Months Ended September 30,		
	Point in			Point in			Point in			Point in		
	Time	Over Time	Total	Time	Over Time	Total	Time	Over Time	Total	Time	Over Time	Total
2024	\$ 627	\$ 2,332	\$ 2,959	\$ 1,183	\$ 4,650	\$ 5,833	\$ 678	\$ 2,404	\$ 3,082	\$ 1,861	\$ 7,054	\$ 8,915
2023	557	2,510	3,067	1,099	4,949	6,048	629	2,482	3,111	1,728	7,431	9,159

Contract Balances

The company did not have any contract assets at either [June 30, 2024](#) [September 30, 2024](#), or December 31, 2023. Unbilled receivables, which are not classified as contract assets, represent arrangements in which sales have been recorded prior to billing and right to payment is unconditional.

The opening and closing balances of the company's current and noncurrent contract liabilities are as follows:

(\$ in millions)	Contract	Contract	Contract	Contract
	Liabilities	Liabilities	Liabilities	Liabilities
	(Current)	(Noncurrent)	(Current)	(Noncurrent)

Balance at December 31, 2023	\$ 114	\$ 3	\$ 114	\$ 3
Increase (decrease)	(38)	(1)	(30)	(1)
Balance at June 30, 2024	\$ 76	\$ 2		
Balance at September 30, 2024			\$ 84	\$ 2

During the ~~six~~ nine months ended ~~June 30, 2024~~ September 30, 2024, contract liabilities decreased by ~~\$39 million~~, ~~\$31 million~~, which is net of cash received of ~~\$84 million~~ ~~\$101 million~~ and amounts recognized as sales of ~~\$123 million~~ ~~\$132 million~~, the majority of which related to current contract liabilities. The amount of sales recognized in the ~~six~~ nine months ended ~~June 30, 2024~~ September 30, 2024, that was included in the opening contract liabilities balance, was \$114 million, all of which related to current contract liabilities. The difference between the opening and closing balances of the company's contract liabilities primarily results from timing differences between the company's performance and the customer's payments. Current contract liabilities are classified within other current liabilities ~~on~~ ~~in~~ the unaudited condensed consolidated balance sheets and noncurrent contract liabilities are classified within other liabilities.

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6. Business Consolidation and Other Activities

Business consolidation and other activities resulted in charges of ~~\$60 million~~ ~~\$85 million~~ and ~~\$86 million~~ ~~\$171 million~~ for the three and ~~six~~ nine months ended ~~June 30, 2024~~ September 30, 2024, respectively, in the unaudited condensed consolidated statements of earnings. During the three and ~~six~~ nine months ended, the charges were primarily related to facility closure costs and costs for employee severance, employee benefits and other related items resulting from the company restructuring its operating model. The charges for the ~~six~~ three and nine months ended ~~June 30, 2024~~ September 30, 2024, were partially offset by income from the receipt of insurance proceeds for replacement costs related to the 2023 fire at the company's Verona, Virginia extruded aluminum slug manufacturing facility.

Business consolidation and other activities resulted in ~~income of \$6 million~~ and charges of ~~\$14 million~~ ~~\$29 million~~ and ~~\$43 million~~ for the three and ~~six~~ nine months ended ~~June 30, 2023~~ September 30, 2023, respectively, in the unaudited condensed consolidated statements of earnings. ~~During the six months ended, June 30, 2023, the~~ These charges of ~~\$14 million~~ were primarily related to ~~composed of~~ facility closure costs. ~~Due to the sale of the aerospace business, the company reclassified \$18 million of costs to sell incurred and paid in 2023 previously reported as business consolidation and other activities to discontinued operations, net of tax. See Note 4 for further details on these costs and the aerospace sale.~~

7. Supplemental Cash Flow Statement Disclosures

(\$ in millions)	June 30,		September 30,	
	2024	2023	2024	2023
Beginning of period:				
Cash and cash equivalents	\$ 695	\$ 548	\$ 695	\$ 548
Current restricted cash (included in other current assets)	15	10	15	10
Total cash, cash equivalents and restricted cash	\$ 710	\$ 558	\$ 710	\$ 558
End of period:				
Cash and cash equivalents	\$ 1,346	\$ 955	\$ 1,440	\$ 1,335
Current restricted cash (included in other current assets)	2	13	4	14
Total cash, cash equivalents and restricted cash	\$ 1,348	\$ 968	\$ 1,444	\$ 1,349

The company's restricted cash is primarily related to receivables factoring programs and represents amounts collected from customers that have not yet been remitted to the banks as of the end of the reporting period.

Noncash investing activities include the acquisition of property, plant and equipment (PP&E) for which payment has not been made. These noncash capital expenditures are excluded from the unaudited condensed consolidated statements of cash flows. A summary of the PP&E acquired but not yet paid, inclusive of amounts related to the historical aerospace business, is as follows:

(\$ in millions)	June 30,		September 30,	
	2024	2023	2024	2023
Beginning of period:				
PP&E acquired but not yet paid	\$ 204	\$ 392	\$ 204	\$ 392
End of period:				
PP&E acquired but not yet paid	\$ 139	\$ 204	\$ 101	\$ 207

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Notes to the Unaudited Condensed Consolidated Financial Statements

8. Receivables, Net

(\$ in millions)	June 30,	December 31,	September 30,	December 31,
	2024	2023	2024	2023
Trade accounts receivable	\$ 1,721	\$ 1,165	\$ 1,707	\$ 1,165
Unbilled receivables	486	520	501	520
Less: Allowance for doubtful accounts	(14)	(15)	(13)	(15)
Net trade accounts receivable	2,193	1,670	2,195	1,670
Other receivables	518	387	460	387
	<u>\$ 2,711</u>	<u>\$ 2,057</u>	<u>\$ 2,655</u>	<u>\$ 2,057</u>

The company has entered into several regional committed and uncommitted accounts receivable factoring programs with various financial institutions for certain receivables of the company. The programs are accounted for as true sales of the receivables and had combined limits of approximately \$1.59 billion \$1.63 billion and \$2.00 billion at June 30, 2024 September 30, 2024, and December 31, 2023, respectively. A total of \$690 million \$702 million and \$350 million were available for sale under these programs as of June 30, 2024 September 30, 2024, and December 31, 2023, respectively. The combined limit and available for sale amount as of December 31, 2023, included \$160 million and \$97 million, respectively, associated with receivable factoring programs included within the historical aerospace reportable segment. The company has recorded expense related to its factoring programs of \$10 million \$12 million and \$25 million \$29 million for the three months ended June 30, 2024 September 30, 2024 and 2023, respectively, and \$23 million \$35 million and \$40 million \$69 million for the six nine months ended June 30, 2024 September 30, 2024 and 2023 respectively, and has presented these amounts in selling, general and administrative in its unaudited condensed consolidated statements of earnings.

Other receivables include income and indirect tax receivables, aluminum scrap sale receivables and other miscellaneous receivables.

9. Inventories, Net

(\$ in millions)	June 30,	December 31,	September	December
	2024	2023	30,	31,
	2024	2023	2024	2023
Raw materials and supplies	\$ 1,036	\$ 1,182	\$ 1,041	\$ 1,182
Finished goods	478	440	438	440
Less: Inventory reserves	(88)	(91)	(94)	(91)
	<u>\$ 1,426</u>	<u>\$ 1,531</u>	<u>\$ 1,385</u>	<u>\$ 1,531</u>

10. Property, Plant and Equipment, Net

(\$ in millions)	June 30,	December 31,	September	December
	2024	2023	30,	31,
	2024	2023	2024	2023
Land	\$ 203	\$ 215	\$ 205	\$ 215
Buildings	1,786	1,792	1,831	1,792
Machinery and equipment	7,730	7,636	7,824	7,636
Construction-in-progress	1,060	1,179	1,004	1,179
	<u>10,779</u>	<u>10,822</u>	<u>10,864</u>	<u>10,822</u>
Accumulated depreciation	(4,232)	(4,107)	(4,314)	(4,107)
	<u>\$ 6,547</u>	<u>\$ 6,715</u>	<u>\$ 6,550</u>	<u>\$ 6,715</u>

Depreciation expense was \$116 million \$113 million and \$112 million \$115 million for the three months ended June 30, 2024 September 30, 2024 and 2023, respectively, and \$232 million \$345 million and \$221 million \$336 million for the six nine months ended June 30, 2024 September 30, 2024 and 2023, respectively.

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11. Goodwill

(\$ in millions)			
Beverage	Beverage		Beverage
Packaging,	Packaging,		Packaging,
North & Central	EMEA		
America			

(\$ in millions)	Beverage Packaging, North & Central America		Beverage Packaging, EMEA		Beverage Packaging, South America		Other
Balance at December 31, 2023	\$	1,277	\$	1,378	\$	1,298	\$
Effects of currency exchange		—		(46)		6	—
Other		—		—		2	—
Balance at June 30, 2024 September 30, 2024	\$	1,277	\$	1,332 1,384	\$	1,300	\$

12. Intangible Assets, Net

(\$ in millions)

Acquired customer relationships and other intangibles (net of accumulated amortization and impairment losses of \$1.08 billion at June 30, 2024, and \$1.06 billion at December 31, 2023)

Capitalized software (net of accumulated amortization of \$165 million at June 30, 2024, and \$162 million at December 31, 2023)

Other intangibles (net of accumulated amortization of \$14 million at June 30, 2024, and \$49 million at December 31, 2023)

Acquired customer relationships and other intangibles (net of accumulated amortization and impairment losses of \$1.13 billion at September 30, 2024, and \$1.06 billion at December 31, 2023)

Capitalized software (net of accumulated amortization of \$169 million at September 30, 2024, and \$162 million at December 31, 2023)

Other intangibles (net of accumulated amortization of \$14 million at September 30, 2024, and \$49 million at December 31, 2023)

Total amortization expense of intangible assets was \$36 million and \$38 million \$37 million for the three months ended million \$115 million and \$76 million \$113 million for the six nine months ended June 30, 2024 September 30, 2024 and 2023

13. Other Assets

(\$ in millions)

Long-term pension assets

Right-of-use operating lease assets

Investments in affiliates

Long-term deferred tax assets

Other

Investments in affiliates primarily includes the company's 50 percent ownership interest in an entity in Guatemala, a 50 percent interest in an entity in Vietnam and a 50 percent ownership interest in an entity in the U.S.

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Ball Corporation**Notes to the Unaudited Condensed Consolidated Financial Statements****14. Leases**

The company enters into operating leases for buildings, warehouses, office equipment, production equipment and an aircraft. The company also enters into finance leases for certain plant equipment. The company's leases follows:

		June 30,
(\$ in millions)	Balance Sheet Location	2024
Operating leases:		
Operating lease ROU asset	Other assets	\$ 328
Current operating lease liabilities	Other current liabilities	79
Noncurrent operating lease liabilities	Other liabilities	257
Finance leases:		
Finance lease ROU assets, net	Property, plant and equipment, net	7
Current finance lease liabilities	Short-term debt and current portion of long-term debt	2
Noncurrent finance lease liabilities	Long-term debt	6

15. Debt

Long-term debt consisted of the following:

(\$ in millions)	June 30, 2024
------------------	---------------

Senior Notes

0.875%, euro denominated, due March 2024
5.25% due July 2025
4.875% due March 2026
1.50%, euro denominated, due March 2027
6.875% due March 2028
6.00% due June 2029
2.875% due August 2030
3.125% due September 2031

Senior Credit Facility (at variable rates)

U.S. dollar revolver due June 2027
Term A loan due June 2027 (6.44% - 2024)
Term A loan due June 2027 (5.95% - 2024)

Finance lease obligations

Other (including debt issuance costs)

Less: Current portion

\$

\$

The company's senior credit facilities include long-term multi-currency revolving facilities that mature in the U.S. dollar equivalent of \$1.75 billion. At June 30, 2024, September 30, 2024, \$1.69 billion \$1.7 billion of long-term debt outstanding. In addition to these facilities, the company had \$250 million \$193 million of committed short-term finance lease outstanding. The company also had approximately \$1.00 billion \$1.04 billion of short-term debt outstanding at June 30, 2024, September 30, 2024, of which \$24 million \$42 million was outstanding and due on demand. At December 31, 2023, the company had \$13 million outstanding under short-term uncommitted credit facilities.

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On February 14, 2024, Ball announced a public tender of the \$1.00 billion 5.25% senior notes due July 2026. On March 14, 2024, \$811 million of the \$1.00 billion 5.25% senior notes and \$494 million of the Term A loan were tendered and accepted. Additionally, in the first quarter of 2024, Ball repaid at maturity the outstanding amount of \$817 million and prepaid \$700 million of the Term A loan outstanding balance.

The fair value of Ball's long-term debt was estimated to be \$5.20 billion \$5.37 billion and \$8.07 billion at December 31, 2023, respectively. The fair value reflects the market rates at each period end for debt with credit ratings classified as Level 2 within the fair value hierarchy. Rates currently available to the company for its long-term debt were used to estimate the fair value of long-term debt based on discounted cash flows.

The U.S. note agreements and bank credit agreement contain certain restrictions relating to dividend payments, capital expenditures, asset sales, and the incurrence of additional indebtedness. The company's most restrictive debt covenant (defined) of no greater than 5.0 times, which will change to 4.5 times as of September 30, 2025. The requirement at June 30, 2024, September 30, 2024, and for all prior periods presented, and has met all requirements.

16. Taxes on Income

The company's effective tax rate was 24.5 18.5 percent and 25.2 22.3 percent for the three and six months ended September 30, 2024, respectively. As compared to the statutory U.S. tax rate, the effective tax rate for the three and six months ended September 30, 2024, was lower due to the impact of the research and development credit and other tax benefits.

increased by 1.7 0.7 and 1.2 0.8 percentage points, respectively, for state and local taxes, Pillar Two 1.5 1.0 percentage points, respectively, for non-U.S. rate differences and withholding taxes net of credits, respectively, related to Pillar Two Global Minimum Taxes. for state and local taxes.

The company's effective tax rate was 19.2 25.7 percent and 20.3 22.3 percent for the three and six nine months ended June 30, 2024, respectively. As compared to the statutory U.S. tax rate, the effective tax rate for the three and six nine months ended June 30, 2024, increased by 3.3 and 0.6 percentage points, respectively, for items related to share-based compensation, respectively, for Global Intangible Low-Taxed Income, increased by 1.0 and 0.8 percentage points, respectively, for other U.S. permanent differences and decreased by 1.9 2.9 percentage points, respectively, for non-U.S. rate differences and withholding taxes net of credits and decreased by 0.8 and 0.9 percentage points, respectively, for state and local taxes, Pillar Two 1.5 1.0 percentage points, respectively, for non-U.S. rate differences and withholding taxes net of credits, respectively, related to Pillar Two Global Minimum Taxes. for state and local taxes.

17. Employee Benefit Obligations

	June 30, 2024
(\$ in millions)	
Underfunded defined benefit pension liabilities	\$
Less: Current portion	
Long-term defined benefit pension liabilities	
Long-term retiree medical liabilities	
Deferred compensation plans	
Other	\$

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Components of net periodic benefit cost associated with the company's defined benefit pension plans v

	Three Months Ended June 30,					
	2024			2023		
(\$ in millions)	U.S.	Non-U.S.	Total	U.S.	Non-U.S.	Total
Ball-sponsored plans:						
Service cost	\$ 4	\$ —	\$ 4	\$ 4	\$ 2	\$ 6
Interest cost	15	21	36	16	21	37
Expected return on plan assets	(22)	(19)	(41)	(21)	(26)	(47)
Amortization of prior service cost	—	—	—	—	—	—
Recognized net actuarial loss	1	3	4	—	1	1
Settlement losses and other charges						
(a)						
Total net periodic benefit cost	\$ (2)	\$ 5	\$ 3	\$ (1)	\$ (2)	\$ (3)

(a) The charges in 2023 were plant-related closure charges. These amounts were recorded in bus

(\$ in millions)	Six Months Ended June 30,					
	2024			2023		
	U.S.	Non-U.S.	Total	U.S.	Non-U.S.	Total
Ball-sponsored plans:						
Service cost	\$ 8	\$ 1	\$ 9	\$ 8	\$ 3	\$ 11
Interest cost	30	41	71	32	42	74
Expected return on plan assets	(44)	(39)	(83)	(43)	(50)	(93)
Amortization of prior service cost	—	1	1	—	1	1
Recognized net actuarial loss	2	7	9	1	1	2
Settlement losses and other charges						
(a)						
Total net periodic benefit cost	\$ (4)	\$ 11	\$ 7	\$ (2)	\$ (3)	\$ (5)

(a) The charges in 2023 were plant-related closure charges. These amounts were recorded in bus

Non-service pension income of \$1 million and \$9 million \$7 million for the three months ended June 30, 2024 and income of \$2 million \$3 million and \$16 million \$23 million for the six nine months ended June 30, 2023, included in selling, general and administrative in the unaudited condensed consolidated statements of earnings.

Contributions to the company's defined benefit pension plans were \$15 million \$24 million for the first six nine months of 2023, and such contributions are expected to be approximately estimate may change based on changes in the Pension Protection Act, actual plan asset performance and other factors.

In November 2023, the Trustee Board of the U.K. defined benefit pension plan entered into an agree purchase, or "buy-in", for its U.K. defined benefit pension plan to reduce retirement plan risk, while the transaction allows the company to reduce volatility by removing investment, longevity, mortality, and other risks, substantially all of the pension plan assets to the insurer in exchange for the group annuity insurance contract. The fair value of the annuity contract within plan assets and the pension benefit obligations related to these obligations and future service accruals were replaced with enhanced defined contribution benefits for the impacted employees. The transaction may occur within two three years of the plan freeze, which will trigger a pension settlement that will be recorded in pension components within other comprehensive income, being charged to expense as a noncash settlement.

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18. Equity and Accumulated Other Comprehensive Earnings (Loss)

The following tables provide additional details of the company's equity activity, inclusive of activity in other comprehensive income, for the company's equity:

(\$ in millions; share amounts in thousands)	Common Stock		Treasury Stock		Accumulated Other		
	Number of		Number of		Retained	Comprehensive	Noncon
	Shares	Amount	Shares	Amount	Earnings	Earnings (Loss)	Interes

Balance at March 31, 2024	683,560	\$ 1,352	(370,544)	\$ (4,537)	\$ 11,386	\$ (893)	\$
Balance at June 30, 2024							
Net earnings	—	—	—	—	158	—	
Other comprehensive earnings (loss), net of tax	—	—	—	—	—	(28)	
Common dividends	—	—	—	—	(62)	—	
Treasury stock purchases	—	—	(7,249)	(485)	—	—	
Treasury shares reissued	—	—	(48)	3	—	—	
Shares issued and stock compensation for stock options and other stock plans, net of shares exchanged	241	18	—	—	—	—	
Distributions from deferred compensation plans and other activity	—	—	—	2	(1)	—	
Balance at June 30, 2024	<u>683,801</u>	<u>\$ 1,370</u>	<u>(377,841)</u>	<u>\$ (5,017)</u>	<u>\$ 11,481</u>	<u>\$ (921)</u>	<u>\$</u>
Balance at September 30, 2024							

	Common Stock		Treasury Stock		Accumulated Other		
	Number of		Number of		Retained	Comprehensive	Noncontr
(\$ in millions; share amounts in thousands)	Shares	Amount	Shares	Amount	Earnings	Earnings (Loss)	Interes
Balance at March 31, 2023	682,416	\$ 1,268	(367,929)	\$ (4,414)	\$ 7,422	\$ (637)	\$
Balance at June 30, 2023							
Net earnings	—	—	—	—	173	—	
Other comprehensive earnings (loss), net of tax	—	—	—	—	—	55	
Common dividends	—	—	—	—	(63)	—	
Treasury stock purchases	—	—	—	—	—	—	
Treasury shares reissued	—	—	136	7	—	—	
Shares issued and stock compensation for stock options and other stock plans, net of shares exchanged	312	23	—	—	—	—	
Other activity	—	—	—	1	1	—	
Balance at June 30, 2023	<u>682,728</u>	<u>\$ 1,291</u>	<u>(367,793)</u>	<u>\$ (4,406)</u>	<u>\$ 7,533</u>	<u>\$ (582)</u>	<u>\$</u>
Balance at September 30, 2023							

	Common Stock		Treasury Stock		Accumulated Other		
	Number of		Number of		Retained	Comprehensive	Noncontr
(\$ in millions; share amounts in thousands)	Shares	Amount	Shares	Amount	Earnings	Earnings (Loss)	Interes
Balance at December 31, 2023	683,241	\$ 1,312	(367,551)	\$ (4,390)	\$ 7,763	\$ (916)	\$
Net earnings	—	—	—	—	3,843	—	
Other comprehensive earnings (loss), net of tax	—	—	—	—	—	(5)	
Common dividends	—	—	—	—	(125)	—	
Treasury stock purchases	—	—	(10,314)	(681)	—	—	
Treasury shares reissued	—	—	24	10	—	—	
Shares issued and stock compensation for stock options and other stock plans, net of shares exchanged	560	58	—	—	—	—	
Distributions from deferred compensation plans and other activity	—	—	—	44	—	—	

Balance at June 30, 2024	683,801	\$ 1,370	(377,841)	\$(5,017)	\$ 11,481	\$ (921)	\$
Balance at September 30, 2024							
	Common Stock		Treasury Stock		Accumulated Other		
	Number of		Number of		Retained	Comprehensive	Noncontr
(\$ in millions; share amounts in thousands)	Shares	Amount	Shares	Amount	Earnings	Earnings (Loss)	Interests
Balance at December 31, 2022	682,144	\$ 1,260	(368,036)	\$(4,429)	\$ 7,309	\$ (679)	\$
Net earnings	—	—	—	—	350	—	
Other comprehensive earnings (loss), net of tax	—	—	—	—	—	97	
Common dividends	—	—	—	—	(126)	—	
Treasury stock purchases	—	—	(52)	(3)	—	—	
Treasury shares reissued	—	—	295	15	—	—	
Shares issued and stock compensation for stock options and other stock plans, net of shares exchanged	584	31	—	—	—	—	
Other activity	—	—	—	11	—	—	
Balance at June 30, 2023	682,728	\$ 1,291	(367,793)	\$(4,406)	\$ 7,533	\$ (582)	\$
Balance at September 30, 2023							

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Ball Corporation

Notes to the Unaudited Condensed Consolidated Financial Statements

On April 24, 2024, Ball's Board of Directors approved the repurchase by the company of up to a total of \$1.0 billion of common stock. This repurchase authorization replaced all previous authorizations.

Accumulated Other Comprehensive Earnings (Loss)

The activity related to accumulated other comprehensive earnings (loss) was as follows:

	Pension and		Derivatives	Accumulated	Cu
	Currency	Other	Designated	Other	Tra
	Translation	Postretirement	as Hedges	Comprehensive	(l
(\$ in millions)	(Net of Tax)	(Net of Tax)	(Net of Tax)	Earnings (Loss)	
Balance at December 31, 2023	\$ (380)	\$ (537) (a)	\$ 1	\$ (916)	\$
Other comprehensive earnings (loss) before reclassifications	(139)	11	53	(75)	
Amounts reclassified into earnings	—	5	(29)	(24)	
Aerospace disposal	—	94	—	94	
Balance at June 30, 2024	\$ (519)	\$ (427)	\$ 25	\$ (921)	\$
Balance at September 30, 2024					\$

(a) Includes amounts associated with the Salaried Employees of Ball Aerospace & Technologies Corp.

The following table provides additional details of the amounts reclassified into net earnings from accum

(\$ in millions)	Three Months Ended June 30,		Six Months Ended June 30,		Three Mont
	2024	2023	2024	2023	2024
Gains (losses) on cash flow hedges:					
Commodity contracts recorded in net sales	\$ (19)	\$ 24	\$ (6)	\$ 11	\$
Commodity contracts recorded in cost of sales	4	(16)	(10)	(16)	
Currency exchange contracts recorded in selling, general and administrative	16	6	48	3	
Interest rate contracts recorded in interest expense	3	2	6	2	
Total before tax effect	4	16	38	—	
Tax benefit (expense) on amounts reclassified into earnings	(1)	(4)	(9)	—	
Recognized gain (loss), net of tax	\$ 3	\$ 12	\$ 29	\$ —	\$
Amortization and disposal of pension and other postretirement benefits: (a)					
Actuarial gains (losses) (b)	\$ (3)	\$ 1	\$ (6)	\$ 3	\$
Prior service income (expense) (b)	—	(1)	(1)	(1)	
Aerospace disposal	—	—	(127)	—	
Total before tax effect	(3)	—	(134)	2	
Tax benefit (expense) on amounts reclassified into earnings	1	—	35	—	
Recognized gain (loss), net of tax	\$ (2)	\$ —	\$ (99)	\$ 2	\$

(a) Includes amounts associated with the Salaried Employees of Ball Aerospace & Technologies Corp.

(b) These components are included in the computation of net periodic benefit cost detailed in [Note 17](#).

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Notes to the Unaudited Condensed Consolidated Financial Statements

19. Earnings and Dividends Per Share

(\$ in millions, except per share amounts; shares in thousands)	Three Months Ended June 30,		Six Months Ended June	
	2024	2023	2024	2023

Earnings from continuing operations attributable to				
Ball Corporation, net of tax	\$ 158	\$ 125	\$ 236	\$ 2
Discontinued operations, net of tax	—	48	3,607	1
Net earnings attributable to Ball Corporation	\$ 158	\$ 173	\$ 3,843	\$ 3
Basic weighted average common shares	309,269	314,561	312,109	314,4
Effect of dilutive securities	2,695	2,306	2,581	2,3
Weighted average shares applicable to diluted earnings per share	311,964	316,867	314,690	316,7
Basic - continuing operations	\$ 0.51	\$ 0.40	\$ 0.76	\$ 0
Basic - discontinued operations	—	0.15	11.55	0
Per basic share	\$ 0.51	\$ 0.55	\$ 12.31	\$ 1
Diluted - continuing operations	\$ 0.51	\$ 0.40	\$ 0.75	\$ 0
Diluted - discontinued operations	—	0.15	11.46	0
Per diluted share	\$ 0.51	\$ 0.55	\$ 12.21	\$ 1

Certain outstanding options were excluded from the diluted earnings per share calculation because t approximately 5 million and 4 million for the three months ended **June 30, 2024** **September 30, 2024** a the **six nine** months ended **June 30, 2024** **September 30, 2024** and 2023, respectively.

The company declared and paid dividends of \$0.20 per share for the three months ended **June 30, 2** per share for the **six nine** months ended **June 30, 2024** **September 30, 2024** and 2023.

20. Financial Instruments and Risk Management

Policies and Procedures

The company employs established risk management policies and procedures, which seek to re fluctuations in commodity prices, interest rates, currency exchange rates, **net investments in foreign op** with regard to common share repurchases and the company's deferred compensation stock plan. How procedures will be successful. Although the instruments utilized involve varying degrees of credit, agreements are expected to perform fully under the terms of the agreements. The company monit regular basis, but Ball cannot be certain that all risks will be discerned or that its risk managemer Additionally, in the event of default under the company's master derivative agreements, the non-default with regard to open derivative positions.

Commodity Price Risk - The company manages commodity price risk in connection with market p methods. First, the company enters into container sales contracts that include aluminum-based pr fluctuations under commercial purchase contracts for aluminum sheet. The terms include fixed, floa Second, the company uses certain derivative instruments, including option and forward contracts, as i risk where there are material differences between sales and purchase contracted pricing and volume.

Interest Rate Risk - The company's objective in managing exposure to interest rate changes is to mini and cash flows and to lower its overall borrowing costs. To achieve these objectives,

Ball Corporation**Notes to the Unaudited Condensed Consolidated Financial Statements**

the company may use a variety of interest rate swaps, collars and options to manage its mix of floating

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Currency Exchange Rate Risk - The company's objective in managing exposure to exposure of cash flows and earnings from changes associated with currency exchange various derivative contracts. In addition, at times the company manages earnings through currency option strategies, and the change in the fair value of those options is recorded

Net Investments in Foreign Operations Risk - The company is exposed to change net investments held in foreign subsidiaries. The company's objective in managing exchange operations is to limit the foreign exchange translation risk associated with its net investments. The company uses fixed-for-fixed cross currency swaps to achieve this objective

The following table provides additional information related to the commercial risk described above:

(\$ in millions)	June 30, 2024		
Commercial risk area	Commodity	Currency	Interest
Notional amount of contracts	\$ 1,202	\$ 4,483	\$
Net gain (loss) included in AOCI, after-tax	16	(3)	
Net gain (loss) included in AOCI, after-tax, expected to be recognized in net earnings within the next 12 months	16	9	
Longest duration of forecasted cash flow hedge transactions in years	1	2	

In July 2024, we entered into and designated two net investment hedges against the operations. We utilized cross-currency interest rate swaps for which the notional amount mature in the first quarter of 2027 and the second quarter of 2029, respectively. As cross currency swaps as net investment hedges, we record changes in fair value in accumulated other comprehensive earnings (AOCI). Gains and losses remain in AOCI until a substantially complete liquidation of the respective underlying net investment in the 2024, a \$15 million net loss remained in AOCI, after tax. The changes in fair value other than those due to fluctuations in the spot rate are excluded from the assessment recorded as a reduction to interest expense over the life of the hedge in the unaudited earnings. The reduction in interest expense from these excluded components for September 30, 2024, was \$2 million.

Common Stock Price Risk

The company's deferred compensation stock program is subject to variable plan accounting fair value using the company's closing stock price at the end of the related reporting period. The company has entered into interest rate swap contracts to reduce the company's earnings exposure to these fair value fluctuations. As of March 2025, and which have a combined notional value of 1.4 million shares. Based on the program, each \$1 change in the company's stock price would have an insignificant impact on the company's earnings.

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Fair Value Measurements

Ball has classified all applicable financial derivative assets and liabilities as Level 2 within the fair value hierarchy and December 31, 2023, and presented those values in the tables below. The company's assessment of fair value measurement requires judgment and may affect the valuation of fair value assets and liabilities and their classification within the fair value hierarchy levels.

		June 30, 2024		
		Derivatives Designated as Hedging Instruments	Derivatives not Designated as Hedging Instruments	Total
(\$ in millions)	Balance Sheet Location			
Assets:				
Commodity contracts		\$ 31	\$ —	\$
Currency contracts		84	15	
Interest rate and other contracts		9	—	
Total current derivative contracts				
	Other current assets	\$ 124	\$ 15	\$
Commodity contracts		\$ 1	\$ —	\$
Currency contracts		19	—	
Interest rate and other contracts		7	—	
Total noncurrent derivative contracts				
	Other noncurrent assets	\$ 27	\$ —	\$
Liabilities:				
Commodity contracts		\$ 18	\$ 1	\$
Currency contracts		—	26	
Other contracts		—	12	
Interest rate and other contracts				

Total current derivative contracts	Other liabilities	current			
			\$	18	\$ 39
Commodity contracts			\$	1	\$ —
Currency contracts					
Interest rate and other contracts					
Net investment hedge					
Total noncurrent derivative contracts	Other noncurrent liabilities	noncurrent	\$	1	\$ —

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		December	
		Derivatives	Derivatives
		Designated	Designated
		as Hedging	as Hedging
		Instruments	Instruments
(\$ in millions)	Balance Sheet Location		
Assets:			
Commodity contracts		\$ 20	\$
Currency contracts		65	
Interest rate and other contracts		9	
Total current derivative contracts	Other current assets	\$ 94	\$
Currency contracts		\$ 1	\$
Total noncurrent derivative contracts	Other noncurrent assets	\$ 1	\$
Liabilities:			
Commodity contracts		\$ 19	\$
Currency contracts		—	
Interest rate and other contracts		3	
Total current derivative contracts	Other current liabilities	\$ 22	\$
Currency contracts		\$ 1	\$
Total noncurrent derivative contracts	Other noncurrent liabilities	\$ 1	\$

The company uses closing spot and forward market prices as published by the London Metal Exchange and Bloomberg to determine the fair value of any outstanding aluminum, currency, energy, **cross currency** Option contracts are valued using a Black-Scholes model with observable market inputs for aluminum each of its financial instruments either internally using a single valuation technique, from a reliable observable market, or from a third party. The present value discounting factor is based on the comparable time period Secured Overnight Financing Rate (LIBOR) or 12-month LIBOR. Ball performs validations of the company's internally derived fair values on a quarterly basis utilizing counterparty valuation statements. The company additionally evaluates counterparty credit risk. **2024 September 30, 2024**, has not identified any circumstances requiring the reported values of the company's derivative instruments to be adjusted.

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Notes to the Unaudited Condensed Consolidated Financial Statements

The following tables provide the effects of derivative instruments in the unaudited condensed consolidated other comprehensive earnings (loss):

		Three Months Ended June 30,						
		2024			2023			
		Cash Flow Hedge - Reclassified			Cash Flow Hedge - Reclassified			
		Amount from Accumulated	Gain (Loss) on Derivatives not Designated as	Other	Amount from Accumulated	Gain (Loss) on Derivatives not Designated as	Other	
	Location of Gain (Loss) Recognized in Earnings on Derivatives	Comprehensive Earnings (Loss)	Hedge Instruments		Comprehensive Earnings (Loss)	Hedge Instruments		
(\$ in millions)								
Commodity contracts - manage exposure to customer pricing	Net sales	\$ (19)	\$ —	\$ 24	\$ —			
Commodity contracts - manage exposure to supplier pricing	Cost of sales	4	(9)	(16)	6			
Interest rate contracts - manage exposure for outstanding debt	Interest expense	3	—	2	—			
Currency contracts - manage exposure	Selling, general and administrative	16	29	6	(1)			
Equity contracts	Selling, general and administrative	—	(11)	—	7			
Total		\$ 4	\$ 9	\$ 16	\$ 12			

		Six Months Ended June 30,						
		2024				2023		
		Cash Flow		Cash Flow				
		Hedge -		Hedge -				
		Reclassified		Reclassified				
		Amount from	Gain (Loss) on	Amount from	Gain (Loss) on			
		Accumulated	Derivatives not	Accumulated	Derivatives not			
		Location of Gain (Loss)	Other	Designated as	Other	Designated as	Locati	
		Recognized in Earnings	Comprehensive	Hedge	Comprehensive	Hedge	Recog	
		(\$ in millions)	on Derivatives	Earnings (Loss)	Instruments	Earnings (Loss)	Instruments	
Commodity contracts - manage exposure to customer pricing	Net sales	\$ (6)	\$ —	\$ 11	\$ —	Net s		
Commodity contracts - manage exposure to supplier pricing	Cost of sales	(10)	(6)	(16)	(1)	Cost		
Interest rate contracts - manage exposure for outstanding debt	Interest expense	6	—	2	(5)	Intere		
Currency contracts - manage currency exposure	Selling, general and administrative	48	56	3	(2)	Sellin admini		
Equity contracts	Selling, general and administrative	—	3	—	15	Sellin admini		
Total		\$ 38	\$ 53	\$ —	\$ 7			

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Ball Corporation
Notes to the Unaudited Condensed Consolidated Financial Statements

The changes in accumulated other comprehensive earnings (loss) for derivatives designated as hedge:

(\$ in millions)	Three Months Ended June 30,		Six Months Ended June 30,		Three Mont
	2024	2023	2024	2023	2024

Amounts reclassified into earnings:

Commodity contracts	\$	15	\$	(8)	\$	16	\$	5	\$
Interest rate contracts		(3)		(2)		(6)		(2)	
Currency exchange contracts		(16)		(6)		(48)		(3)	

Change in fair value of cash flow hedges:

Change in fair value of hedges:

Commodity contracts	9	10	10	24
Interest rate contracts	4	22	16	22
Currency exchange contracts	16	(1)	45	(2)

Net investment contracts

Currency and tax impacts	(6)	(4)	(9)	(12)	
	\$ 19	\$ 11	\$ 24	\$ 32	\$

In July 2024, we entered into and designated two net investment hedges against the net assets of currency interest rate swaps for which the notional amounts of €250 million and €600 million mature in 2029, respectively.

21. Contingencies

Ball is subject to numerous lawsuits, claims or proceedings arising out of the ordinary course of business, including but not limited to: personal injury; the use and performance of company products; warranty matters; patent, trademark or copyright infringement; product liability; the conduct of the company's business; tax reporting in domestic and non-U.S. jurisdictions; environmental matters. The company has also been identified as a potentially responsible party (PRP) at several sites. In addition, the company has received claims alleging that employees in certain plants have suffered occupational health and safety hazards. Some of these lawsuits, claims and proceedings involve substantial amounts, including awards of damages. Some proceedings involve potential monetary costs or sanctions that may be material. Ball has denied liability in certain proceedings and is vigorously defending such lawsuits, claims and proceedings. The company carries and other forms of insurance; however, such insurance may not be applicable or adequate to cover the full amount of damages in respect to these lawsuits, claims and proceedings. The company estimates that potential liabilities from such lawsuits, claims and proceedings are approximately \$26 million in the aggregate, and such amounts have been included in other comprehensive income for the period ended June 30, 2024. Based on the information available at the present time, any reasonable estimate of the recorded accruals cannot be estimated.

On February 1, 2012, Ball Metal Beverage Container Corp. ("BMBCC") filed suit against Crown Tech LLC ("Crown") in the U.S. District Court for the Southern District of Ohio seeking a declaratory judgment that the CDL beverage container patents held by Crown are invalid due to indefiniteness. In response, Crown filed a counterclaim alleging that the CDL beverage container patents and seeking damages. On September 25, 2019, the District Court granted BMBCC's motion for summary judgment that the CDL beverage container patents were invalid due to indefiniteness. On October 20, 2019, Crown appealed this decision to the U.S. Court of Appeals for the Sixth Circuit. On December 31, 2020, the CAFC in a non-precedential decision, vacated the decision of the District Court and remanded the case to the District Court for further proceedings. On an additional factor under a novel position advanced by the CAFC, and remanded the case to the District Court for further proceedings. On August 4, 2023, Crown appealed this decision to the CAFC. Brief oral argument is expected to be scheduled during 2024 with a decision to follow. Based on the information available at the present time, the company is unable to predict the ultimate outcome of this claim including the amount of any reasonably possible loss or range of loss.

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Ball Corporation

Notes to the Unaudited Condensed Consolidated Financial Statements

The company's operations in Brazil are involved in various governmental assessments, which have internal transfer of inventory, gross revenue taxes, and indirect tax incentives and deductibility of subsidiaries received an income tax assessment focused on the disallowance of deductions associated with a portion of its operations. Based on the information available at the present time, the Company is unable to estimate the amount of reasonably possible loss and intends to vigorously defend these matters.

22. Indemnifications and Guarantees

General Guarantees

The company or its appropriate consolidated direct or indirect subsidiaries have made certain indemnifications. A specified entity may be required to make payments in relation to certain transactions. These indemnities are in contracts to which the company or its subsidiaries are a party, including agreements related to the sales of their packaging products and services; guarantees to suppliers of subsidiaries of the company; indemnities under a purchase agreement, construction contract, renewable energy purchase contract or other contracts; U.S. subsidiaries' pension plans; indemnities for liabilities associated with the infringement of third-party intellectual property rights; types of agreements; indemnities to various lessors in connection with facility, equipment, furniture and fixtures arising from such leases; indemnities pursuant to agreements relating to certain joint ventures; indemnities for substantially all of the assets and specified liabilities of businesses; and indemnities to directors, officers and employees permitted under the laws of the State of Indiana and the United States of America. The duration of the indemnities, and, in certain cases, is indefinite.

In addition, many of these indemnities, commitments and guarantees do not provide for any limitation on the amount of compensation the company could be obligated to make. As such, the company is unable to reasonably estimate its potential liability.

The company has not recorded any material liabilities for these indemnities, commitments and guarantees on its consolidated balance sheets. The company does, however, accrue for payments under promissory notes and for losses for any known contingent liability, including those that may arise from indemnifications, which are both reasonably estimable and probable. Finally, the company carries specific and general liability commitments and guarantees from third-party purchasers, sellers and other contracting parties in certain circumstances, provide recourse to certain claims arising from these indemnifications, commitments and guarantees.

Ball Corporation

Notes to the Unaudited Condensed Consolidated Financial Statements

Debt Guarantees

The company's and its subsidiaries' obligations under the senior notes and senior credit facilities of the company and its non-U.S. subsidiaries under the senior credit facilities, the obligations of the company and its domestic subsidiary borrowers, and obligations of other guarantors and the subsidiaries under the senior credit facilities are guaranteed by the company, in each case with certain exceptions. These obligations under the senior notes and senior credit facilities referred to above, are coterminous with the terms of the indentures, senior notes and credit agreement, and they could be enforced by the holders of the senior notes and senior credit facilities.

during the continuation of an event of default under the note indentures, the senior not maximum potential amounts which could be required to be paid under such guarant outstanding obligations under the respective senior notes or the credit agreement (or U.S. subsidiaries under the senior credit facilities, the obligations of non-U.S. credit p All obligations under the guarantees of the senior credit facilities are secured, with cert perfected lien or pledge on (i) 100 percent of the capital stock of each of the compar subsidiaries directly owned by the company or any of its wholly owned domestic su capital stock of each of the company's material wholly owned first-tier non-U.S. subsidi or any of its wholly owned domestic subsidiaries. In addition, the obligations of certain

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Ball Corporation

Notes to the Unaudited Condensed Consolidated Financial Statements

non-U.S. borrowers and non-U.S. pledgors under the loan documents will be secured, with certain pledge on 100 percent of the capital stock of certain of the company's material wholly owned non domiciled non-U.S. subsidiaries directly owned by the company or any of its wholly owned material s above-referenced senior notes or senior credit facilities.

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Item 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND

Management's discussion and analysis should be read in conjunction with the unaudited condens financial statements) and accompanying notes included in [Item 1](#) of this Quarterly Report on Form 1 accounting policies, practices and the transactions underlying our financial results. The preparation o with accounting principles generally accepted in the United States of America (U.S. GAAP) requires u reported amounts in our consolidated financial statements and the accompanying notes, including v taxes, environmental and other matters arising during the normal course of business. We apply our circumstances and actions that we may undertake in the future in determining the estimates that affec our estimates on an ongoing basis using our historical experience, as well as other factors we bel current economic conditions, and adjust or revise our estimates as circumstances change. As future precision, actual results may differ from these estimates. Ball Corporation and its subsidiaries are refe company," "we" or "our" in the following discussion and analysis.

OVERVIEW

Business Overview and Industry Trends

Ball Corporation is one of the world's leading aluminum packaging suppliers. With a growth mindset our competitive strengths to reach our financial goals. We are focused on maintaining our strong fina global customers, delivering operational efficiencies and an innovative product portfolio from our best to shareholders via share repurchases and dividends. In the aluminum packaging industry, sales i increasing prices, developing new products, expanding volumes and making strategic acquisitions.

We sell our aluminum packaging products mainly to large, multinational beverage, personal care and developed long-term relationships. This is evidenced by our high customer retention and our large nur diversified customer base, we sell a significant portion of our packaging products to major compa customers. The overall global aluminum beverage and aerosol container industries are growing and long term.

We purchase our raw materials from relatively few suppliers. We also have exposure to inflation, in p other direct cost inputs. We mitigate our exposure to the changes in the costs of aluminum through majority of our volumes to pass through aluminum price changes, as well as through the use of d generally result in proportional increases or decreases in sales and costs with a greatly reduced imp timing differences of when the costs are passed through. Because of our customer and supplier concei of operations could be adversely affected by the loss, insolvency or bankruptcy of a major customer o major customer or supplier, although our contract provisions generally mitigate the risk of custome known, stable customer base.

From time to time, we have evaluated and expect to continue to evaluate possible transactions shareholders, which may include strategic acquisitions, divestitures of parts of our company or equit discussions or negotiations at various stages of development with respect to one or more possible letters of intent. As part of any such initiatives, we may participate in processes being run by other com

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RESULTS OF CONSOLIDATED OPERATIONS

Management's discussion and analysis for our results of operations on a consolidated and segment material impact. Other factors that did not have a material impact, but that are significant to understand

On February 16, 2024, the company completed the divestiture of its aerospace business. Effective as financial performance in three reportable segments: (1) beverage packaging, North and Central Americ Africa (beverage packaging, EMEA) and (3) beverage packaging, South America. See [Note 1](#) for furthe

Global Economic Environment

Recent data has indicated continued high inflation in the regions where we operate. Current and future among other things, supply chain disruptions, governmental stimulus or fiscal and monetary policies, certain goods and services. We cannot predict with any certainty the impact that rising interest rates, t may have on our customers or suppliers. Additionally, we are unable to predict the potential effect escalation of global conflicts, including the conflict between Russia and Ukraine and the rising insta sanctions or market disruptions, may have on our business. It remains uncertain how long any of these become.

Consolidated Sales and Earnings

(\$ in millions)	Three Months Ended June 30,		Six Months Ended June 30,		Three Months
	2024	2023	2024	2023	2024
Net sales	\$ 2,959	\$ 3,067	\$ 5,833	\$ 6,048	\$ 3,08

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aerospace disposal, partially offset by an increase of \$11 million from higher weighted average interest rates. The company expects to carry a smaller amount of weighted average principal throughout 2024 compared to 2023, having fixed rates. See [Note 15](#) for further details.

Income Taxes

The effective tax rate for the three and six months ended June 30, 2024 September 30, 2024, compared to 19.2 percent and 20.3 percent for the same periods in 2023. The increase in the effective tax rate for the three and six months ended June 30, 2024 September 30, 2024, respectively, was primarily due to rate differences and withholding taxes net of credits, increased tax benefits from state and local taxes. Similar impacts may occur in future periods, but given their inherent uncertainty, the company is unable to estimate the impact.

RESULTS OF BUSINESS SEGMENTS

Segment Results

Ball's operations are organized and reviewed by management along its product lines and geographical areas. The following table presents the three reportable segments discussed below.

Beverage Packaging, North and Central America

(\$ in millions)	Three Months Ended June 30,	
	2024	2023
Net sales	\$ 1,469	\$ 1,537
Comparable operating earnings	210	175
Comparable operating earnings as a % of segment net sales	14 %	11 %

(\$ in millions)	Three Months Ended September 30,	
	2024	2023
Net sales	\$ 1,456	\$ 1,541
Comparable operating earnings	203	196
Comparable operating earnings as a % of segment net sales	14 %	13 %

Ball permanently ceased production at its aluminum beverage can manufacturing facility in St. Paul, Minnesota in the third quarter of 2023, ceased production at its aluminum beverage can manufacturing facility in Wallkill, New York in the third quarter of 2023 and permanently ceased production at its aluminum beverage can manufacturing facility in Kent, Washington in the first quarter of 2024.

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Segment sales for the three and six months ended June 30, 2024 September 30, 2024, compared to the same periods in 2023, were lower and \$169 million \$254 million lower, respectively, compared to the same periods in 2023. The decrease in sales for the three months ended June 30, 2024 September 30, 2024, was primarily due to a \$77 million decrease in sales from lower sales prices resulting mainly from lower aluminum prices and \$37 million from lower volumes. The decrease for the six months ended September 30, 2024, was primarily due to a \$169 million decrease in sales from lower sales prices resulting mainly from lower aluminum prices and \$37 million from lower volumes. The decrease for the six months ended September 30, 2024, was primarily due to a \$169 million decrease in sales from lower sales prices resulting mainly from lower aluminum prices and \$37 million from lower volumes.

2024, was primarily due to lower sales prices resulting mainly decreases of \$203 million lower aluminum prices. volumes.

Comparable operating earnings for the three and six nine months ended June 30, 2024, were \$7 million higher and \$44 million \$51 million higher, respectively, compared to the same periods in 2023. The increase for the three months ended June 30, 2024, was primarily due to higher sales prices resulting mainly from price/mix and \$16 million from lower costs, and \$11 million partially offset by higher volumes. The increase for the six nine months ended June 30, 2024, was primarily due to higher sales prices resulting mainly from price/mix and \$50 million from lower costs, and \$12 million from higher volumes, partially offset by a decrease decreases of \$32 million from income recognition of a long term power supply contract that offset higher energy costs. and \$12 million from lower

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Beverage Packaging, EMEA

(\$ in millions)	Three Months Ended June 30,		Six Months Ended June 30,		Three Months Ended June 30,
	2024	2023	2024	2023	2023
Net sales	\$ 880	\$ 920	\$ 1,690	\$ 1,754	\$ 1,754
Comparable operating earnings	113	98	198	171	171
Comparable operating earnings as a % of segment net sales	13 %	11 %	12 %	10 %	10 %

Segment sales for the three and six nine months ended June 30, 2024, were \$40 million lower, respectively, compared to the same periods in 2023. The decreases increase for the three months ended June 30, 2024, were primarily due to decreases from lower sales prices higher volumes. The decrease for the six nine months ended June 30, 2024, was primarily due to a decrease of \$70 million resulting mainly from lower aluminum prices. prices, partially offset by higher volumes.

Comparable operating earnings for the three and six nine months ended June 30, 2024, were \$52 million higher, respectively, compared to the same periods in 2023. The increase for the three months ended June 30, 2024, was primarily due to higher sales prices resulting mainly from price/mix and \$14 million \$19 million from higher volumes. The increase for the six months ended June 30, 2024, was primarily due to higher sales prices resulting mainly from price/mix and \$28 million from higher volumes, partially offset by a decrease of \$4 million from higher volumes.

Beverage Packaging, South America

(\$ in millions)	Three Months Ended June 30,		Six Months Ended June 30,		Three Months Ended June 30,
	2024	2023	2024	2023	2024
Net sales	\$ 422	\$ 405	\$ 904	\$ 855	\$ 484
Comparable operating earnings	37	30	92	80	78

Cash Flows and Capital Expenditures

Our primary sources of liquidity are cash provided by operating activities and external borrowings. V even in the absence of operating cash flows from the historical aerospace reportable segment, and ca revolver borrowings, when necessary, will be sufficient to meet our ongoing operating requirements, dividend payments, anticipated share repurchases and anticipated capital expenditures. We have lim facilities are in place until 2027. The following table summarizes our cash flows:

(\$ in millions)	Six Mont
	2024
Cash flows provided by (used in) operating activities	\$ (9
Cash flows provided by (used in) investing activities	5,2
Cash flows provided by (used in) financing activities	(3,4

Cash flows from the historical aerospace reportable segment are presented within each cash flow st cash flows. Depreciation and amortization, capital expenditures and significant operating and inves operation are presented in [Note 4](#).

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Cash flows used in operating activities were \$995 million \$385 million in 2024, primarily driven by the i outflows of accounts receivable factoring by \$749 million as a result of having significant cash on hand 16, 2024, the company completed the divestiture of the aerospace business. We currently estimate a as a cash outflow from operations in 2024, of which \$461 million \$484 million has been paid as of , further details. In an elevated interest rate environment, payment terms with our customers and vendc information used to negotiate our contract terms. At June 30, 2024 September 30, 2024, days sales days; therefore, a change of one day in days sales outstanding will impact cash flows provided by (use June 30, 2024 September 30, 2024, days payable outstanding was 117 days; therefore, a change of o flows provided by (used in) operating activities by \$26 million \$27 million. At June 30, 2024 Septembt days; therefore, a change of one day in days inventory outstanding will impact cash flows provided million.

Cash flows provided by investing activities were \$5.20 billion \$5.18 billion in 2024, primarily driven by sale of the aerospace business of \$5.42 billion, which is subject to further customary closing adjustmen

Cash flows used in financing activities were \$3.50 billion \$4.00 billion in 2024, primarily driven by net and repurchases of common stock of \$665 million \$1.06 billion. See [Note 15](#) for further details on available.

We have entered into several regional committed and uncommitted accounts receivable factoring prog our accounts receivable. The programs are accounted for as true sales of the receivables, with lir approximately \$1.59 billion \$1.63 billion and \$2.00 billion at June 30, 2024 September 30, 2024 anc million \$702 million and \$350 million were available for sale under these programs as of June 30, 2 respectively. The combined limit and available for sale amount as of December 31, 2023, included \$: with receivable factoring programs included within the historical aerospace reportable segment. The co programs of \$10 million \$12 million and \$25 million \$29 million for the three months ended June 30, 20

On February 14, 2024, Ball announced a public tender of the \$1.00 billion 5.25% senior notes due July March 2026. On March 14, 2024, \$811 million of the \$1.00 billion 5.25% senior notes and \$494 million tendered and accepted. Additionally, in the first quarter of 2024, Ball repaid at maturity the outstanding amount of \$817 million and prepaid \$700 million of the Term A loan outstanding balance.

The company's senior credit facilities include a \$1.35 billion term loan and long-term, multi-currency provide the company with up to the U.S. dollar equivalent of \$1.75 billion. At **June 30, 2024** **September 30, 2024** was available under the company's long-term, multi-currency committed revolving credit facilities. In **million** **\$193 million** of committed short-term loans outstanding and a **\$25 million short-term financing** approximately **\$1.00 billion** **\$1.04 billion** of short-term uncommitted credit facilities available at **June 30, 2024** **million** was outstanding and due on demand. At December 31, 2023, the company had \$196 million million outstanding under short-term uncommitted credit facilities.

While ongoing financial and economic conditions in certain areas may raise concerns about credit risk, the company mitigates its exposure by allocating the risk among various counterparties and limiting exposures of our suppliers, customers, lenders and counterparties on a regular basis.

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We were in compliance with the leverage ratio requirement at **June 30, 2024** **September 30, 2024**, and payment obligations. The U.S. note agreements and bank credit agreement contain certain restrictions, **repurchases**, investments, financial ratios, guarantees and the incurrence of additional indebtedness. us to maintain a leverage ratio (as defined) of no greater than 5.0 times, which will change to 4.5 **2024** **September 30, 2024**, the company could borrow an additional **\$2.34 billion** **\$2.39 billion** under facilities and short-term uncommitted credit facilities. Additional details about our debt are available in statements within [Item 1](#) of this report. In July 2024, we entered into and designated two net investment-denominated operations. See [Note 20](#) for further details.

Argentina

See [Note 1](#) for information relevant to economic and other government policies that may have an impact on the resources of the company's Argentina operations.

Aluminum Cups

See [Note 1](#) for considerations regarding the Ball Aluminum Cups business as the company assesses its future success.

Defined Benefit Pension Plans

In November 2023, the Trustee Board of the U.K. defined benefit pension plan entered into an agreement to purchase, or "buy-in," for its U.K. defined benefit pension plan to reduce retirement plan risk, while the plan was frozen on April 5, 2024. See [Note 17](#) for further details.

CONTINGENCIES, INDEMNIFICATIONS AND GUARANTEES

Details of the company's contingencies, legal proceedings, indemnifications and guarantees are available in consolidated financial statements within [Item 1](#) of this report. The company is routinely subject to litigation and has been designated by various federal, state, and international environmental agencies as a potential

companies, for the clean-up of several hazardous waste sites. The company believes the matters identified may affect its liquidity, results of operations or financial condition.

Guaranteed Securities

The company's senior notes are guaranteed on a full and unconditional, joint and several basis by subsidiaries that guarantee the notes (the obligor group). The entities that comprise the obligor group described in the supplemental indentures governing the company's existing senior notes, the senior domestic subsidiaries that guarantee any other indebtedness of the company.

The following summarized financial information relates to the obligor group as of June 30, 2024. Intercompany transactions, equity investments and other intercompany activity between obligor group and the company are summarized financial information. Investments in subsidiaries not forming part of the obligor group are summarized financial information of the historical aerospace reportable segment are included in the following summarized financial information and for the year ended December 31, 2023, as the guarantees of the aerospace business legal entities. In 2024, the company completed the divestiture of the aerospace business. As such, the following summarized financial information and for the six nine months ended June 30, 2024 September 30, 2024, does not include results and financial information of the aerospace reportable segment.

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(\$ in millions)	Six Months Ended	
	June 30, 2024	December 31, 2023
Net sales	\$ 3,438	\$ 3,438
Gross profit (a)	428	428
Net earnings	3,753	3,753
Net earnings attributable to Ball Corporation	3,753	3,753

(a) Gross profit is shown after depreciation and amortization related to cost of sales of \$95 million \$142 million for the six nine months ended June 30, 2024 September 30, 2024, and \$272 million for the year ended December 31, 2023.

For the six nine months ended June 30, 2024 September 30, 2024, and the year ended December 31, 2023, the company's transactions with other subsidiary companies: sales to them of \$650 million \$946 million and \$1.13 billion and \$38 million, respectively, and net interest income from them of \$167 million \$252 million and \$3 million, respectively, and dividends from other subsidiary companies of \$38 million and \$814 million, during the six nine months ended June 30, 2024 September 30, 2024, and the year ended December 31, 2023, respectively.

(\$ in millions)	June 30, 2024	
	Assets	Liabilities
Current assets	\$ 2,800	\$ 2,800
Noncurrent assets	15,200	15,200
Current liabilities	4,000	4,000
Noncurrent liabilities	8,500	8,500

Included in the amounts disclosed in the table above, at June 30, 2024 September 30, 2024, and December 31, 2023, the company's receivables from other subsidiary companies of \$487 million \$472 million and \$768 million, respectively, for receivables from other subsidiary companies of \$10.37 billion \$10.53 billion and \$10.20 billion, respectively, payables due to other subsidiary companies of \$2.14 billion \$2.17 billion and \$2.17 billion, respectively, and long-term notes payable due to other subsidiary companies of \$2.14 billion \$2.17 billion and \$2.17 billion, respectively.

A description of the terms and conditions of the company's debt guarantees is located in [Note 22](#) of [Item 7A](#).

Item 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

The company employs established risk management policies and procedures which seek to reduce the risk of fluctuations in commodity prices, interest rates, currency exchange rates, [net investments in foreign operations](#) and to common share repurchases and the company's deferred compensation stock plan. However, the procedures will be successful. Although the instruments utilized involve varying degrees of credit, the agreements are expected to perform fully under the terms of the agreements. The company monitors the market on a regular basis, but Ball cannot be certain that all risks will be discerned or that its risk management procedures will be successful. Additionally, in the event of default under the company's master derivative agreements, the non-defaulting parties may be required to open derivative positions. Further details are available in Item 7A within Ball's 2023 Annual Report and in [Note 20](#) accompanying the consolidated financial statements included within [Item 1](#) of this report.

Item 4. CONTROLS AND PROCEDURES

Our chief executive officer and chief financial officer participated in management's evaluation of our disclosure controls and procedures, as of the end of the period covered by this report and found them to be effective. There were no changes to internal controls during the company's [second third](#) quarter of 2023 that are likely to materially affect, our internal control over financial reporting.

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FORWARD-LOOKING STATEMENTS

This report contains "forward-looking" statements concerning future events and financial performance. Words such as "believes," and similar expressions typically identify forward looking statements, which are generally an expression of opinion. Such statements are based on current expectations or views of the future and are subject to risks and uncertainties that may cause actual outcomes and results to be different from those expressed or implied. You should therefore not place undue reliance on these statements. These statements should be read in conjunction with, and qualified in their entirety by, the cautionary statements referred to in Item 1A. We may update or revise any forward-looking statements, whether as a result of new information, future events or otherwise, that could cause actual outcomes and results to be different from those expressed or implied. Additional factors that could affect our business include changes in product capacity, supply, and demand constraints and fluctuations and changes in consumption patterns; changes in logistics; competitive packaging, pricing and substitution; changes in climate and weather and related events such as hurricanes, tornadoes and floods; footprint adjustments and other manufacturing changes, including the [startup operations](#); changes in energy costs; achieve synergies, productivity improvements or cost reductions; unfavorable mandatory deposit or payment requirements; power and supply chain interruptions; changes in major customer or supplier contracts or loss of a major customer or supplier; increased costs; war, political instability and sanctions, including relating to the situation in Russia and the Middle East; ability to operate in Europe, the Middle East and Africa regions generally; changes in foreign exchange rates; governmental actions, including business restrictions and orders affecting goods produced by Ball or its subsidiaries; and b) Ball as a whole include those listed above plus: the extent to which sustainability-related opportunities and risks may affect our business; senior management, succession, and the ability to attract and retain skilled labor; regulatory actions or changes; social and governance reporting, competition, environmental, health and workplace safety, including U.S. public concerns affecting products filled in Ball's containers, or chemicals or substances used in our products; technological developments and innovations; the ability to manage cyber threats; litigation; strikes; disposition of assets of Ball's defined benefit retirement plans; pension changes; uncertainties surrounding our business, including policies, orders, and actions related to COVID-19; [policies](#); reduced cash flow; interest rates and foreign exchange rates; ventures, acquisitions and divestitures, and their effects on Ball's operating results and business generation.

PART II. OTHER INFORMATION

Item 1. Legal Proceedings

There were no events required to be reported under [Item 1](#) for the three months ended **June 30, 2024** to the consolidated financial statements included within Part I, Item 1 of this report.

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Item 1A. Risk Factors

There were no changes required to be reported under Item 1A for the three months ended **June 30, 2024** to the consolidated financial statements included within Part I, Item 1A of this report. The risk factors related to the aerospace business are not

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds

The following table summarizes the company's repurchases of its common stock during the **second** third quarter of 2024.

Purchases of Securities					
	Total Number of Shares Purchased (a)	Average Price Paid per Share	Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs (a)	Maximum Number of Shares that May Yet Be Purchased Under the Plans or Programs (b)	Total Number of Shares Purchased (a)
(\$ in millions)					
April 1 to April 30, 2024	2,786,761	\$ 66.62	2,786,761	39,690,000	
May 1 to May 31, 2024	1,820,052	69.59	1,820,052	37,869,948	
June 1 to June 30, 2024	2,642,861	65.09	2,642,861	35,227,087	
July 1 to July 31, 2024					2,447,182
August 1 to August 31, 2024					2,210,899
September 1 to September 30, 2024					1,557,765
Total	7,249,674		7,249,674		6,215,846

(a) Includes any open market purchases (on a trade-date basis), share repurchase agreements and/or withholding tax liabilities.

(b) The company has an ongoing repurchase program for which **40 million** shares are **authorized** by the Board of Directors. On April 24, 2024, the Board authorized the repurchase by the company of up to a total of **40 million** shares, which replaced all previous authorizations.

Item 3. Defaults Upon Senior Securities

There were no events required to be reported under Item 3 for the three months ended **June 30, 2024** §

Item 4. Mine Safety Disclosures

Not applicable.

Item 5. Other Information

There were no events required to be reported under Item 5 for the three months ended **June 30, 2024** §

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Item 6. Exhibits

2.1 [Stock Purchase Agreement, dated as of August 16, 2023, by and among Ball Corporation and BAE Systems plc, set forth therein, BAE Systems plc](#)

3(ii) [Bylaws of Ball Corporation as amended, filed herewith.](#)

22 [Obligor group subsidiaries of Ball Corporation](#)

31.1 [Certification pursuant to Rule 13a-14\(a\) or Rule 15d-14\(a\) by Daniel W. Fisher, Chairman](#)

31.2 [Certification pursuant to Rule 13a-14\(a\) or Rule 15d-14\(a\) by Howard H. Yu, Executive Vice President and Chief Financial Officer of Ball Corporation.](#)

32.1 [Certification pursuant to Rule 13a-14\(b\) or Rule 15d-14\(b\) and Section 1350 of Chapter 101 of the Securities Exchange Act of 1934, as amended, by Daniel W. Fisher, Chairman and Chief Executive Officer of Ball Corporation.](#)

32.2 [Certification pursuant to Rule 13a-14\(b\) or Rule 15d-14\(b\) and Section 1350 of Chapter 101 of the Securities Exchange Act of 1934, as amended, by Howard H. Yu, Executive Vice President and Chief Financial Officer of Ball Corporation.](#)

99 [Cautionary statement for purposes of the safe harbor provisions of the Private Securities](#)

101.INS XBRL Instance Document - the instance document does not appear in the Interactive Data File, but is contained within the Inline XBRL document.

101.SCH Inline XBRL Taxonomy Extension Schema Document.

101.CAL Inline XBRL Taxonomy Extension Calculation Linkbase Document

101.DEF Inline XBRL Taxonomy Extension Definitions Linkbase Document

101.LAB Inline XBRL Taxonomy Extension Label Linkbase Document

101.PRE Inline XBRL Taxonomy Extension Presentation Linkbase Document

104 The cover page of the company's quarterly report on Form 10-Q for the quarter ended
Inline XBRL (contained in Exhibit 101), the: (i) Unaudited Condensed Consolidated
Statement of Comprehensive Earnings (Loss), (iii) Unaudited Condensed Consolidated
Consolidated Statement of Cash Flows and (v) Notes to the Unaudited Condensed Con

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SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused
undersigned thereunto duly authorized.

Ball Corporation
(Registrant)

By: /s/ Howard H. Yu
Howard H. Yu
Executive Vice President and Chief Financial Officer

Date: August 1, October 31, 2024

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STOCK PURCHASE AGREEMENT

BY AND AMONG

BAE SYSTEMS, INC.,

BALL CORPORATION

AND, SOLELY FOR PURPOSES OF SECTION 1

BAE SYSTEMS PLC

Dated as of August 16, 2023

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STOCK PURCHASE AGREEMENT

This Stock Purchase Agreement is dated as of August 16, 2023, by and corporation ("Purchaser"), Ball Corporation, an Indiana corporation ("Seller") and hereof, BAE Systems plc, a United Kingdom public limited company ("Purchaser G") this Agreement are defined in Article I, unless otherwise defined herein.

RECITALS

WHEREAS, Seller owns 100% of the issued and outstanding shares of ca Corp., a Colorado corporation (the "Company");

WHEREAS, Seller desires to sell, transfer, convey, assign and deliver to Designees), and Purchaser desires to (and to cause any Purchaser Designee, as Seller's rights, title and interest in and to all of the issued and outstanding shares ("Shares"), subject to the terms and the conditions set forth in this Agreement;

WHEREAS, Seller will, and will cause its Controlled Affiliates to, and Purchaser Designee and Purchaser's Controlled Affiliates to, at or prior to the Closing, Transaction Agreements to which they are a party; and

WHEREAS, the parties desire to make certain representations, warranties, and covenants with this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises contained herein and other good and valuable consideration, the parties hereby acknowledged, and intending to be legally bound, the parties agree as follows:

ARTICLE I

DEFINITIONS

1.1 **Definitions.** Capitalized terms used in this Agreement shall have the meanings set forth in the following terms, whenever used herein, shall have the following meanings for all purposes:

"Accounting Principles" shall have the meaning set forth on Annex A.

"Acquired Companies" shall mean, each of and collectively, (a) the Subsidiary, Ball Aerospace & Technologies Corp., a Delaware corporation (the "Company") consummation of the pre-Closing reorganization contemplated by Section 6.18; and (b) any limited

liability company ("TI LLC") and Ball Topaz Environmental Intelligence, LLC, a Delaware limited liability company, and, together with TI LLC, "Topaz").

"Acquired Company Benefit Plan" shall mean each Benefit Plan contributed to solely by the Acquired Companies or (b) exclusively for the benefit of the Acquired Company Employees.

"Affiliate" as to any Person, shall mean any other Person that, directly or indirectly, by, or is under common control with, such Person, through one or more intermediate persons, exercises or has the power to exercise, either directly or indirectly, a controlling influence over the management and policies of such Person, whether through the ownership of voting securities of such Person or otherwise. For purposes of this Agreement, Affiliates of the Purchaser shall be deemed, for purposes of this Agreement, Affiliates of the Purchaser at and after the Closing.

"Agreement" shall mean this Stock Purchase Agreement (including all other schedules, annexes and exhibits attached hereto), as it may be amended from time to time.

“Anti-Corruption Laws” shall mean the U.S. Foreign Corrupt Practices Act, applicable anti-bribery legislation enacted by member states of the European Union, the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, and any Requirement applicable to any Acquired Company or the Business from time to time.

"Antitrust Laws" shall mean any Legal Requirements applicable to Pu the Business under any applicable jurisdiction that are designed to prohibit, restrict the purpose or effect of monopolization, restraint of trade or lessening competition, foreign antitrust or competition Legal Requirements.

“Axinn” shall mean Axinn, Veltrop & Harkrider LLP.

“**Benefit Plan**” shall mean each (a) “employee benefit plan” within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974, whether or not subject to ERISA, (b) benefit or compensation plan, policy, program or arrangement, including any equity, equity-based, retirement, profit sharing, bonus, commission, incentive, or other compensation in control, retention, transaction-based compensation, deferred compensation, tax-deferred compensation, time off, medical, dental, life or disability plan, program, policy or arrangement or (c) any other similar individual agreement, plan, policy, arrangement or program, in each case that falls within the meaning of clauses (a), (b) and (c), that is sponsored, maintained or contributed to by Seller or any Company Employee, Former Company Employee or other current or former employee of Seller or any Company Employee, Former Company Employee or other current or former employee of Seller.

service provider of the Business, with respect to which Seller or any of its ERISA any Company Employee, Former Company Employee or other individual service provider with respect to which any of the Acquired Companies has or could reasonably be expected to have a material relationship (as determined by the Acquired Companies) other than any of the foregoing described in clauses (a), (b) or (c) that is sponsored or maintained) by a Governmental Authority.

“Business” shall mean the business of designing, developing, manufacturing, equipment, parts and components and providing services used in reconnaissance, civil, commercial and national security aerospace markets and related industries, including (a) the design, development, production and manufacture of space frequency systems and components, national defense hardware, antenna and video space hardware, data exploitation solutions, advanced technologies and products for climate change monitoring as well as deep space missions and other advanced technologies of the solutions, products and services provided by the national defense, tactical technology and information solutions divisions of Seller, (c) the provision of systems related to the foregoing and (d) all other business activities of the Acquired Company, (b) clauses (a) – (c), as conducted by the Acquired Companies, the Seller or its other subsidiaries or as of the Closing, as applicable.

“Business Day” shall mean any day other than (a) a Saturday or a Sunday, or (b) a day on which federal reserve banks or savings and loan institutions are authorized or required to be closed in New York, New York.

“Business Pension Plan” shall mean the Ball Corporation Pension Employees of Ball Aerospace & Technologies Corp.

"Business Systems" shall mean all Software, computer hardware (v systems, including electronic data processing, information, record keeping, c networks, interfaces, platforms, equipment, servers, peripherals and systems, processes, that are owned or used by or for the Business.

"Cash" shall have the meaning set forth on Annex A, Part I.

“CFIUS” shall mean the Committee on Foreign Investment in the U.S., or its successor, and its members, acting in such capacity.

"CFIUS Authorities" shall mean the Defense Production Act of 1950, implementing regulations located at 31 C.F.R. Parts 800 and 802.

"CFIUS Clearance" shall mean that: (a) the parties have received CFIUS has determined that the Transactions are not a "covered transaction" within (ii) CFIUS's review (or, if applicable, investigation) under the CFIUS Authorities or voluntary notice submitted by the parties has concluded, and CFIUS has determined security concerns with respect to the Transactions, and advised that all action undertaken with respect to the Transactions or (b) CFIUS shall have sent a report to the President requesting the President's decision on the joint voluntary notice submitted by the parties; CFIUS Authorities during which the President may announce a decision to take limitations on the Transactions shall have expired or (ii) the President shall have taken action to suspend, prohibit or place any limitations on the Transactions.

"Clean Team Agreement" shall mean that certain Clean Team Confidentiality Agreement entered into by and between Seller and Purchaser as it has been or may be supplemented, modified or amended.

"Closing Conditions" shall mean the conditions to the respective obligations of the parties to the Transactions, as set forth in Article X.

"Code" shall mean the United States Internal Revenue Code of 1986.

"Collective Bargaining Agreement" shall mean any collective bargaining agreement with any labor or trade union, works council, employee representative or other employee organization.

"Combination Mark" shall mean the "GO BEYOND WITH BALL" Trademark and applications for such Trademark, including U.S. Reg. No. 5214969.

"Commercial Tax Agreement" shall mean any commercial Contract entered into by the parties for business the principal purpose of which does not pertain to Taxes.

"Company Employee" shall mean each (a) Direct Employee and (b) Indirect Employee, including each such employee who is on leave of absence (including medical leave, extended COVID-19-related leave, military leave, workers' compensation leave, sick leave or paid or unpaid time off).

"Consent" shall mean any consent, waiver, approval or authorization.

"Consolidated Return" shall mean any consolidated, combined, unitary or separate income tax return of Seller or any of its Controlled Affiliates (other than the Acquired Companies), on the one hand, or the Acquired Companies, on the other hand.

"Contagion Event" shall mean the outbreak and ongoing effects of COVID-19).

"Contract" shall mean any legally binding agreement, contract, arrangement, instrument, commitment or undertaking of any nature.

"Controlled Affiliate" shall mean each Affiliate of a Person that is controlled by such Person. For purposes of this definition, "control" of a Person shall mean the power to direct the management and policies of such Person, whether by ownership, contract or otherwise. The Acquired Companies shall be deemed, for purposes of this Agreement, to be Controlled Affiliates of Purchaser at and after the Closing.

“COVID-19” shall mean the novel coronavirus (SARS-CoV-2 or C thereof and any associated public health emergency, epidemic, pandemic or ou vaccines for, or in connection with, any of the foregoing.

“Credit Facilities” shall mean the facilities set forth on Schedule 1.1(a).

“Customs & Trade Laws” shall mean all applicable export, import programs and Legal Requirements administered, enacted or enforced by any Gove Export Administration Regulations, the U.S. International Traffic in Arms Regu Requirements administered by U.S. Customs and Border Protection; (b) the anti-t by the U.S. Departments of Commerce and Treasury and (c) any other similar expi trade programs or Legal Requirements in any relevant jurisdiction to the exte Companies.

“Cybersecurity Incident” shall mean any (a) unauthorized interfere unauthorized access to, any Business System, including any phishing incident, r service attack, breach of information technology or any stored information, (b) destruction, damage, disclosure, loss, corruption, alteration or use of, any Personal cybersecurity, data or systems breach, attack or incident, in each case ((a) through Personal Information or data owned or controlled by or in the possession of an Ac to the conduct of the Business by Seller or any of its Controlled Affiliates.

“Cybersecurity Measures” shall mean (a) any regulations promulgated cybercrime, cyberterrorism, ransomware, malware, privacy or the protection of Per measures, changes in business operations or other practices, affirmative or negativ

Company in response to a cybersecurity attack, breach or incident, for the protec stored information.

“Data Protection Laws” shall mean all applicable Legal Requirements relevant Governmental Authority in any jurisdiction in which any Acquired Compan of the Business, Seller or any of its Controlled Affiliates, conducts business relatir processing or protection of Personal Information.

“Data Room” shall mean all electronic and in-person data rooms cre and set forth on Schedule 1.1(b) of the Seller Disclosure Schedule.

“DCSA” shall mean the Defense Counterintelligence and Security Age

“DCSA Approval” shall mean (a) receipt by the parties of written act DCSA that it has accepted a foreign ownership, control or influence mitigation pl Purchaser or (b) the entry into a written commitment notice or commitment letter e) by DCSA to mitigate the foreign ownership, control or influence over the Business result of the transactions contemplated by this Agreement.

“Debt Commitment Letter” shall mean an executed commitment lett exhibits thereto, dated as of the date hereof, from the Debt Financing Sources parti

“Debt Financing” shall mean the debt financing committed to be prov Sources pursuant to the Debt Commitment Letter or other agreements entered in c set forth therein with respect to each such Debt Financing Source, for purposes of f

“Debt Financing Sources” shall mean the Persons that have commi any agreements in connection with any Debt Financing or alternative debt financ including the parties named in the Debt Commitment Letter and any joinder a indentures or credit agreements entered into pursuant thereto or relating thereto.

"Direct Employee" shall mean each individual who is directly employed by the Business.

"Encumbrance" shall mean any lien, security interests, license, option, easement, claim, encroachment, servitude, right-of-way, preemption, collateral assignment, refusal, buy/sell agreement, defects in title or survey, or encumbrances of a similar nature.

any restriction on the transfer of such security arising solely under applicable Legal Requirements.

"Environmental Law" shall mean any Legal Requirement in effect as to the protection of the environment, including pollution, public or worker health or safety (as it relates to exposure to Hazardous Materials, Hazardous Waste, or Hazardous Substances), or the environment or natural resources, including the use, handling, transportation, treatment, storage, disposal, release or discharge of, or exposure to, Hazardous Materials.

"ERISA" shall mean the Employee Retirement Income Security Act of 1974.

"ERISA Affiliate" shall mean any Person which is treated at a relevant time as an ERISA Affiliate of the Business pursuant to Subsections (b), (c), (m) or (o) of Section 414 of the Code.

"Former Company Employees" shall mean (a) the Former Direct Employees and (b) the Former Indirect Employees.

"Former Direct Employee" shall mean each individual who was, at the time of the Closing Date, as applicable, directly employed by an Acquired Company.

"Former Internal Transfer Employee" shall mean each individual who was, at the time of the Closing Date, as applicable, employed by Seller or one of its Controlled Affiliates (including an Acquired Company) and whose regular employment duties or responsibilities were related to the Business.

"Fraud" shall mean an actual and intentional fraud by a party in the matter covered by this Agreement or the certificate delivered pursuant to Section 10.1(c) (in the case of Seller) or Section 10.2(c) (in the case of Purchaser). For the purposes of this Agreement, "Fraud" shall include any cause of action based on constructive or imputed knowledge, equitable estoppel, or any similar theory.

"GAAP" shall mean generally accepted accounting principles in the time(s) for purposes of this Agreement.

"Government Contract" shall mean any Contract between an Acquirer or the Business, Seller or any of its other Controlled Affiliates and (a) a Governmental Authority or (b) any subcontractor at any tier with respect to any Contract entered into by the Business or any of its Controlled Affiliates (other than any Real Property Lease).

"Governmental Authority" shall mean any United States federal, state or local government, political subdivision, governmental agency, or other entity exercising

regulatory or administrative authority, instrumentality, agency, body or commission, tribunal or judicial or arbitral body, in each case, exercising executive, legislative, judicial or other governmental functions.

"Hazardous Materials" shall mean (a) petroleum, petroleum products, radioactive materials, asbestos or asbestos-containing materials, per- and polyfluorinated biphenyls and (b) any chemical, material or substance defined or regulated as a hazardous material, pollutant, contaminant, or for which liability or standards of conduct may be imposed under any applicable law.

"HSR Act" shall mean the Hart-Scott-Rodino Antitrust Improvements /

"Inactive Employee" shall mean each Internal Transfer Employee who is on i
for long-term disability benefits as of the Closing Date.

"Income Tax" shall mean any Taxes imposed on or determined with re
receipts (including any franchise or withholding Taxes imposed in lieu thereof).

"Income Tax Amount" shall mean the amount (which shall not be less
of any jurisdiction or any type of Income Tax) of all unpaid Income Taxes of the
payable with respect to any Pre-Closing Tax Period, calculated (a) as of the end
entity basis, such that the deductions and losses of one Acquired Company may n
of another Acquired Company unless such offset is actually permitted by applicabl
taxable income any adjustment as a result of a change in or use of an improper
Closing Date and any prepaid amounts or deferred revenue that, in each case, w
income on or prior to the Closing Date, (c) by disregarding any transactions enter
the ordinary course of business on the Closing Date after the Closing not otherwise
by taking into account the Topaz Reorganization. In the case of any Straddle Peri
an amount of Income Taxes allocable to the portion of the Straddle Period endir
determined applying the conventions set forth in [Section 8.2\(b\)](#). For the avoidance
not include any Income Taxes reported on a Consolidated Return, which Income
Affiliates.

"Income Tax Return" shall mean any Tax Return in respect of Income

"Indebtedness" shall mean those items of indebtedness listed on [Ann](#)

"Indemnified Taxes" shall mean, without duplication, (a) Taxes of Se
Acquired Company) for any taxable period, (b) Taxes of any consolidated, combin
Acquired Company is or was a member on or prior to the Closing Date, including Te

Section 1.1502-6 (or any corresponding provision of state, local or foreign Legal Re
its Affiliates (other than another Acquired Company) imposed on an Acquired Cor
assumption, Contract or the operation of any Legal Requirement, which Taxes re
prior to the Closing, (d) Specified Sales Taxes and (e) Taxes arising from or rel
Reorganization, the transactions contemplated by the IP Assignment Agreement, i
any transaction described in [Section 6.5](#) or [Section 6.6](#); provided, however, that if t
Taxes in the R&W Insurance Policy is eliminated prior to the Closing Date such tha
by the R&W Insurance Policy in the same manner as other Taxes that are no
"Indemnified Taxes" shall be deemed deleted; provided, further, that Seller
reasonable efforts to cooperate to cause such exclusion to be eliminated from the f
of doubt, "Indemnified Taxes" shall not include the amount of any Taxes taken int
Income Tax Amount or Net Working Capital.

"Intellectual Property" shall mean all intellectual property and propri
(a) patents, patent applications, patent disclosures, inventions, statutory inventi
similar or equivalent rights in inventions, designs, utility models, industrial mc
divisionals, continuations, continuations-in-part, reissues, extensions, substituti
invention and design patents, applications for any of the foregoing and all rights
and conventions ("[Patents](#)"), (b) trade secrets and rights in confidential and prop
ideas, patent disclosures, inventions, processes, formulae, models and methodolo
algorithms, layouts, specifications, data and databases, processes, designs, tec
quality assurance and control procedures, design tools, simulation capability,
research data and records, in each case excluding any rights in respect of an
protected by issued Patents ("[Trade Secrets](#)"), (c) trademarks, service marks, ti
dress, Internet domain names and other indicia of source or origin and all registrati

foregoing, together with the goodwill symbolized by any of the foregoing ("Trade authorship (whether or not copyrightable), all registrations and applications for issuances, extensions and renewals of such registrations and applications ("Copyri moral rights and (g) rights of privacy and publicity.

"Internal Transfer Employee" shall mean each employee of Seller c Acquired Companies) whose job duties or services are primarily related to the Acc set forth by employee identification number on Schedule 1.1(c) of the Seller Disclos

"IRS" shall mean the United States Internal Revenue Service.

"Key Customer" shall mean each of the customers or programs se Disclosure Schedule.

"Key Vendor" shall mean each of the vendors set forth on Schedule 1.

"Legal Requirement" shall mean any statute, law, ordinance, regulatic or rule of law (including common law) promulgated by a Governmental Authority.

"Liabilities" shall mean any direct or indirect debt, liability, oblig; endorsement of or by such Person of any type, whether accrued, absolute, con unliquidated, known or unknown, asserted or unasserted, billed or unbilled, fixed o or inchoate, perfected or unperfected, due or to become due, or determined or dete

"Losses" shall mean all losses, damages, costs, expenses, penalti fines actually suffered or incurred (including reasonable and documented out-of-poc

"Malicious Code" shall mean any surreptitious computer code o components intentionally designed to permit unauthorized access to, disable or perform any other similar type of unauthorized activities (including viruses, Trojan routines (as these terms are commonly used in the computer software industry)).

"Material Adverse Effect" shall mean any event, change, develop reasonably be expected to have, individually or in the aggregate, a material adv financial condition or results of operations of the Business, taken as a whole; prov or effect resulting or arising from or in connection with any of the following mat combination, to constitute or contribute to, or be taken into account in determinir Adverse Effect: (a) any national, international, foreign, domestic or regional econor (including changes therein), (b) hostilities, acts of war, protests, riots, lool cyberterrorism or military actions or any escalation or worsening of, or other chang of the foregoing, (c) changes in any financial, debt, credit, capital or banking marke inflation or any disruption thereof, (d) changes in interest, currency or exchange rat wars, (e) any act of God, hurricane, flood, tornado, fire, explosion, nuclear incident other natural disaster, any Contagion Event or other outbreak of illness or public he worsening of, or other changes or developments with respect to, any of the fore conditions, including changes in Legal Requirements (or standards, official interpre Pandemic Measures), including in connection with a Contagion Event or the conflict

Russian Federation and Ukraine, (g) changes in GAAP or other applicable ac enforcement thereof, (h) changes in the industries in which the Acquired Compani Companies to meet any internal or published (A) financial projections, (B) esti revenues, goals, earnings or other measures of financial or operating performance event, change, development or effect or combination thereof underlying such

determining whether a Material Adverse Effect has occurred or would reasonably event, change, development or effect or combination thereof is not otherwise (Adverse Effect)), (j) any effect resulting from (A) the negotiation, execution, pe consummation of the Transactions or compliance with any requirements under the respect to Section 6.1(a)(1)), (B) any breach by Purchaser of any of its represent this Agreement or the other Transaction Agreements or (C) the identity of Purc foregoing clause (j)(A) shall not apply to any representation or warranty that consequences of the negotiation, execution, pendency, announcement, performan or with respect to the condition to the Closing to the extent it relates to any such re any action taken or omission to act by Purchaser, including any communication Affiliates of its plans or intentions with respect to the Business or the Acquired C arising therefrom) losses or threatened losses of, or any adverse change in the i suppliers, vendors, resellers, distributors, financing sources, licensors, licensees Business, (l) the effect of any event or action taken or omission to act by Seller or omission is at the express written request of Purchaser, (m) the failure, in and of its with the Transactions or (n) the initiation of a Proceeding by any Person with r Transactions; provided that to the extent that any event, change, development or e (h) disproportionately has a greater adverse impact on the Business, taken as a w such event, change, development or effect has on other Persons operating in the s then the incremental effect of such event, change, development or effect shall be t a Material Adverse Effect has occurred.

"Net Working Capital" shall have the meaning set forth on Annex A, P

"Net Working Capital Overage" shall have the meaning set forth on Ar

"Net Working Capital Underage" shall have the meaning set forth on £

"Non-Disclosure Agreement" shall mean the non-disclosure agreeme May 3, 2023, as modified by the supplement effective as of June 27, 2023.

"Open Source Software" shall mean any Software that is licensed p approved by the Open Source Initiative and listed at <http://www.opensource.org/licenses> "free" or "open source software" by the Free Software Foundation.

"Order" shall mean any order, writ, judgment, injunction, tempora determination or award entered by or with any Governmental Authority.

"Owned IP" shall mean the Intellectual Property (a) owned or p Companies as of the date of this Agreement, which shall include all Intellectual Pr in Schedule 4.11(a) of the Seller Disclosure Schedule or (b) owned by Seller o Acquired Companies) and transferred to an Acquired Company at or prior to the Cl

"Pandemic Measures" shall mean any quarantine, "shelter in place," shutdown, closure, sequester, safety or any other Legal Requirement, Proceeding recommendation by any applicable Governmental Authority, including the Centers the World Health Organization, in each case in connection with or in response to an

"Permit" shall mean any permit, order, license, registration, certificate approval issued or required by any Governmental Authority under any applicable L

"Permitted Encumbrances" shall mean (a) Encumbrances for Tax charges or levies not yet due and payable or the amount or the validity of wh appropriate Proceedings or that may thereafter be paid without material penalty, in have been established and recorded on the Financial Statements in accordance v warehousemen, mechanics, materialmen, workmen, repairmen and other simila

supplies imposed or permitted by Legal Requirements in the ordinary course of deposits made in the ordinary course of business in connection with workers' compensation, (c) other types of social security, (d) defects or imperfections of title, easements, or other similar charges or other matters of record which do not, or would not reasonably be occupancy of the Real Property in the operation of the Business as conducted in accordance with applicable codes and other generally applicable land use and environmental restrictions imposed by Governmental Authority having jurisdiction over such Real Property which are not in current use or occupancy of such Real Property or the operation of

the Business thereon, (f) Encumbrances imposed on the underlying fee interest (including any property leased or subleased by any Acquired Company or over which any Acquired Company holds similar property rights), (g) Encumbrances incurred in the ordinary course of business, (h) Sheet securing liabilities that are not material to the Business, taken as a whole, (i) Encumbrances or resulting from this Agreement or the other Transaction Agreements, (j) Encumbrances on any Acquired Company that are discharged or released at or prior to the Closing, (k) Encumbrances (date survey or inspection would show, which do not, or would not reasonably be occupancy of the Real Property in the operation of the Business as conducted in accordance with the capacity) of any real estate lease or sublease (and related terms and conditions) to the lessee or sublessee, (l) non-exclusive licenses of, non-exclusive covenants not to sue, (m) rights of rights to use or obligations with respect to Intellectual Property granted by an Acquired Company in the ordinary course of business consistent with past practice, including under the Supplement and any other Legal Requirements applicable to the Acquired Company, (n) Encumbrances on securities created under federal, state or foreign securities laws, (o) Encumbrances on bids, trade Contracts, leases, statutory obligations, surety and appeal bonds, penalties, and other obligations of a like nature, in each case in the ordinary course of business, (p) Encumbrances on Statements, (q) non-monetary encumbrances or imperfections of title that, individually or collectively, impair the continued use and operation of the properties and assets to which they relate, (r) conducted and (s) Encumbrances created by or at the written request of, or resulting from the withholding of consent in violation of the terms of this Agreement by, Purchaser or a

"Person" shall mean any individual, corporation (including any non-profit corporation), limited partnership, limited liability partnership, joint venture, estate, trust or company, or joint stock company) or other similar entity, including a Governmental Authority.

"Personal Information" shall mean any information identifying, relating to, or capable of being associated with, or that could reasonably be linked, directly or indirectly, to an individual household and any data that constitutes personal information or personal data under applicable law.

"Pre-Closing Tax Period" shall mean any taxable period (or portion thereof) in the case of a Straddle Period) ending on or prior to the Closing Date.

"Proceeding" shall mean any action, claim, suit, charge, complaint or proceeding (whether civil or criminal) by or before any Governmental Authority.

"Purchaser Consolidated Return" shall mean any consolidated, combined or separate tax return includes Purchaser or any of its Affiliates (other than the Acquired Companies) for the year, on the other hand.

"Purchaser Designee" shall mean a wholly owned Subsidiary of Purchaser created by Purchaser to Seller at least five (5) Business Days prior to the Closing Date, (a) delay consummation of the Transactions and (c) treated as a corporation (or an entity treated as a corporation) for United States federal income tax purposes.

"Purchaser Fundamental Representations" shall mean the representations set forth in Section 5.1 (Authority; Enforceability), Section 5.3 (Organization) and Section 5.4 (Indemnification).

"Purchaser Material Adverse Effect" shall mean any event, change in circumstances, or condition, reasonably expected to be, individually or in the aggregate, materially adverse to the business, financial condition or results of operations of the Company, or to consummate the Transactions.

"Real Property" shall mean the Owned Real Property and the Leased Real Property.

"Representatives" shall mean, in relation to a Person, its officers, directors, agents, advisors, other representatives and Affiliates.

"Restricted Cash" shall have the meaning set forth in Annex A, Part I.

"Retained Business" shall mean any business conducted by Seller prior to or after the date hereof, other than the Business.

"Retained Liabilities" shall mean all Liabilities to the extent arising out of the Business, whether any such Liability arises before or after the Closing, is known or unknown at the time this Agreement or any of the other Transaction Agreements provides for the Liabilities of, or otherwise become the responsibility of, Purchaser, its Affiliates, Seller or any of its Affiliates (other than the Acquired Companies)).

"Sanctioned Person" shall mean (a) any Person listed in any Sanctions List maintained by OFAC or the United States Department of State, the United Nations Security Council, any European Union member state or His Majesty's Treasury of the United Kingdom, (b) any Person resident in a Sanctioned Territory or (c) any Person directly or indirectly owned or controlled, in whole or in part, by a Person whose ownership and control requirements, are defined and construed in the

applicable Sanctions Law or in any related official guidance) by any such Person. The terms "Sanctioned Person" and "Sanctioned Territory" shall have the meanings set forth in clauses (a) or (b).

"Sanctioned Territory" shall mean, at any time, a country or territory included in any country-wide or territory-wide Sanctions Laws (as of the date of this Agreement, Cuba, Iran, North Korea, Russia, Syria, and so-called Donetsk People's Republic and Luhansk People's Republic regions of Ukraine).

"Sanctions Laws" shall mean economic or financial sanctions or trade restrictions enforced from time to time by the Office of Foreign Assets Control of the United States Department of State, the United States Department of State, the United Nations Security Council, the United Nations member state or His Majesty's Treasury of the United Kingdom.

"SEC" shall mean the United States Securities and Exchange Commission.

"Seller Benefit Plan" shall mean each Benefit Plan that is not an Acquired Company Benefit Plan.

"Seller Debt Facilities" shall mean the documents in respect of Indebtedness set forth on Schedule 1.1(f) of the Seller Disclosure Schedule.

"Seller Disclosure Schedule" shall mean the disclosure schedules delivered by Seller to Purchaser in connection with the execution of this Agreement.

"Seller Fundamental Representations" shall mean the representations set forth in Section 4.1 (Authority; Enforceability), Section 4.2(b)(i) (Non-Contravention; Organizational documents of Seller and the Acquired Companies), Section 4.3 (Title; Shares) and Section 4.20 (Brokers).

"Seller Transitional Trademarks" shall mean the Trademarks set forth in the Seller Disclosure Schedule.

"Seller's Knowledge" and similar phrases shall mean the actual knowledge of Seller as reflected in the Schedule 1.1(g) of the Seller Disclosure Schedule after due inquiry by each seller in its reports.

"Shared Contracts" shall mean the Contracts under which the Business Seller or any of its Affiliates (other than the Acquired Companies) purchases or sells or uses goods or services on a joint basis; provided that, in no event shall the term "Shared Contracts" include any Contracts for general corporate functions furnished by Seller or its Affiliates (other than the Acquired Companies) on a wide basis to Seller and its Controlled Affiliates, including finance, accounting, information technology, facilities, facilities security, procurement and

other ancillary or corporate shared services provided by Seller or its Affiliates (other than the Acquired Companies) on an enterprise-wide basis to Seller and its Controlled Affiliates or other enterprise-wide organizations within or controlled by Seller or its Affiliates (other than the Acquired Companies). Such functions will be provided to Purchaser under the Transition Services Agreement in the Transition Services Agreement) (collectively in this proviso, "Excluded Share" by mutual written consent, elect to include, or exclude from, this definition any Contract

"Software" shall mean all computer software, data and database software, firmware, middleware, modules, models, algorithms and routines (in each case, in source code form) and all documentation and materials relating to any of the foregoing.

"Specified Sales Taxes" shall mean any sales or similar Taxes levied on the Acquired Company, or required to be remitted or reported by any Acquired Company to any governmental authority with respect to transactions involving government contractors or subcontractors occurring

"Standalone Go Beyond Mark" shall mean "GO BEYOND" as a standalone mark, without any other word, phrase or Trademark other than a Seller Mark.

"Straddle Period" shall mean any taxable period that includes (but does not

"Subsidiary" shall mean, with respect to any Person, whether incorporated or unincorporated, (a) a first Person directly or indirectly owns or controls at least a majority of the securities having ordinary voting power to elect a majority of the board of directors or others performing such securities or other interests, a majority of the equity interests) or (b) such first Person is a subsidiary or operating member. The Acquired Companies shall be deemed, for purposes of this definition, to be subsidiaries of Purchaser prior to the Closing and Subsidiaries of Purchaser at and after the Closing.

"Target Net Working Capital" shall have the meaning set forth in Annex A

"Tax" shall mean (a) all forms of taxation imposed by any Governmental authority, including federal, state or local and foreign taxation (including income, value added, occupation, security (or similar), gross receipts, sales, use, ad valorem, franchise, profits, license, unemployment, excise, severance, occupation, premium, windfall profits, estimated taxes, charges, levies, duties, impositions, or other governmental assessments (including duty, customs and other import or export duties), (b) any interest, penalties or assessments described in the preceding clause and (c) any liability to indemnify, assume or succeed in

Person with respect to any item described in clauses (a) or (b), including as a result of a reorganization, combined, unitary or other similar Tax group or under any Legal Requirements or by operation of law or successor liability.

"Tax Authority" shall mean a Governmental Authority responsible for of any Tax (domestic or foreign).

"Tax Proceeding" shall mean any federal, state, local or foreign administrative proceeding or court proceeding relating to Taxes.

"Tax Return" shall mean any report, return, statement, declaration, no required to be filed with any Tax Authority in connection with the determination, a Tax, including any schedule or attachment thereto and any amendment thereof.

"Transaction Agreements" shall mean this Agreement and the Tran: including all exhibits, annexes and schedules thereto and all amendments thereto terms hereof and thereof.

"Transaction Expenses" shall have the meaning set forth on Annex A.

"Transactions" shall mean the transactions contemplated by this Agreements.

"Transfer Taxes" shall mean any sales, use, stock transfer, real prc goods and services, value-added, stamp, registration, documentary, conveyancing,

"Treasury Regulations" shall mean the United States Treasury regulat

"WARN Act" shall mean the Worker Adjustment and Retraining applicable state or local Legal Requirements requiring notice to employees in the ev

"Willful Breach" shall mean (a) an intentional action or failure to act material breach of this Agreement, and such action was taken or such failure to act in circumstances where such party should reasonably have known, that such acti breach of this Agreement, and such breach (i) resulted in, or contributed to, the faili satisfied or (ii) resulted in, or contributed to, the Closing not being consummat otherwise occurred pursuant to Section 3.1 or (b) the failure of Purchaser to delive to Article III substantially concurrently with the Closing (and, in any event, on the Cl

ARTICLE II

THE TRANSACTIONS

2.1 Sale and Purchase of the Shares. Subject to the terms and conditions shall sell, transfer, convey, assign and deliver to Purchaser (or a Purchaser De Designee) shall purchase from Seller, all of Seller's rights, title and interest in i Encumbrances (other than those arising under applicable securities Legal Requiren

2.2 Purchase Price. The aggregate consideration to be paid by Purchase shall be an amount in cash equal to (a) \$5,555,000,000 (the "Base Price"), plus (b) minus (c) the Net Working Capital Underage (if any), plus (d) Cash as of immr Indebtedness as of immediately prior to the Closing (except that the Income Tax A of the Closing Date), minus (f) Transaction Expenses unpaid as of immediately pr pursuant to this sentence, the "Purchase Price").

2.3 Closing Purchase Price.

(a) Not less than five (5) Business Days prior to the anticipated deliver to Purchaser a written statement (the "Estimated Closing Statement") settir Cash as of immediately prior to the Closing, (ii) Indebtedness as of immediately pri Tax Amount shall be determined as of the end of the Closing Date), (iii) Net

Transaction Expenses unpaid as of immediately prior to the Closing and (v) the re (such amount, the "Closing Purchase Price"), together with reasonable supporting prepared in accordance with the terms and conditions of this Agreement, including i

(b) Following delivery of the Estimated Closing Statement to Purch accountants, advisors and other representatives shall be permitted reasonable a work papers of the Acquired Companies and Seller to the extent reasonably relate each case, upon reasonable notice to Seller and during normal business hours and not interfere with the normal business operations of the Acquired Companies and Seller and the Acquired Companies shall not be obliged to make any work papers accountants' normal disclosure procedures and then only after, as applicable, Purch have signed a customary agreement relating to such access to work papers), an potential adjustments to the calculation of the Closing Purchase Price (or any Purchaser in good faith not less than two (2) Business Days prior to the anticipated this Section 2.3(b) shall obligate Seller to accept any such comments and in comments, Seller's calculation of the Closing Purchase Price (and components t Closing and (ii) Seller's obligations to consider in good faith any such comment contemplated Closing Date be postponed or otherwise delayed.

2.4 Post-Closing Adjustment.

(a) As soon as practicable after the Closing Date but in no event l after the Closing Date, Purchaser shall deliver to Seller a written statement (the Purchaser's good faith calculation of (i) Cash as of immediately prior to the Indebtedness as of immediately prior to the Closing (except that the Income Tax A of the Closing Date) (the "Preliminary Indebtedness"), (iii) Net Working Capital Working Capital"), (iv) Transaction Expenses unpaid as of immediately prior t Expenses") and (v) the resulting calculation of the Purchase Price (such amount, tl together with reasonable supporting detail and documentation, in each case, pre conditions of this Agreement, including the Accounting Principles as applicable. Pi modify the Post-Closing Statement following delivery to Seller. Notwithstanding any the Accounting Principles and the terms and conditions of this Agreement, (A) the solely on facts and circumstances as they exist as of the Closing and shall e: circumstance, development, occurrence, condition, effect or state of facts occurring the Income Tax Amount, to the extent taken or occurring in the ordinary course of b and agree that the purpose of preparing the calculations under this Section 2.4 is t between the items in the Estimated Closing Statements and the Post-Closing State the Accounting Principles and the terms and conditions of this Agreement. If Pu Statement in accordance with this Section 2.4(a), within such one-hundred twen Closing Statement delivered by Seller to Purchaser pursuant to Section 2.3 sl Statement.

(b) Following the receipt of the Post-Closing Statement, Seller Period") to review such Post-Closing Statement and related computations of Indebtedness, the Preliminary Net Working Capital, the Preliminary Transaction Purchase Price. Following the Closing through the date that the Final Closing : accordance with Section 2.4(d), Seller, its Controlled Affiliates and its and their r advisors and other representatives shall be permitted reasonable access to review the Acquired Companies and Purchaser to the extent reasonably related to the F Cash, Indebtedness, Net Working Capital or Transaction Expenses, and Purch reasonable efforts to cause its Affiliates and its and their respective Represent representatives to, cooperate with and assist Seller, its Controlled Affiliates and accountants, advisors and other representatives in connection with such review books, records and work papers and making available personnel to the extent re

notice and during normal business hours and only to the extent that such access does not interfere with the normal operations of the Acquired Companies and Purchaser; provided that the accountants shall not make any work papers available except in accordance with such accountants' normal policies and procedures, after, as applicable, Seller, its applicable

Controlled Affiliates and its and their applicable Representatives have signed a written consent to provide access to work papers. Purchaser agrees that, following the Closing through which the Transaction becomes final and binding in accordance with Section 2.4(d), it will not take, or permit, or cause to its or the Acquired Companies' accounting books, records, policies or procedures, or any of them, the Post-Closing Statement are based, or upon which the Final Closing Statement is based, or expected to impede or materially delay the determination of the amount of Cash, or the preparation of any Statement of Objections or the Final Closing Statement in the manner contemplated by this Agreement, including the Accounting Principles. If Seller has accepted the terms of the Final Closing Statement not given written notice to Purchaser setting forth any objection of Seller to such statement in reasonable detail the nature and basis for such objection, Seller's alternative calculation (including reasonable supporting documentation to support Seller's alternative calculation), a Statement of Objections (such notice, the "Statement of Objections") prior to the execution of the Final Post-Closing Statement shall be final and binding upon the parties, and shall be for the purposes of Section 2.4(d).

(c) In the event that Seller delivers a Statement of Objections to Purchaser during the Review Period, Seller and Purchaser shall negotiate in good faith to resolve any such dispute within a mutually agreed by the parties, such longer period) following the receipt by Purchaser of the Statement of Objections ("Consultation Period"). If Seller and Purchaser reach an agreement in writing during the Consultation Period, the amounts so agreed upon shall be final and such agreement shall be incorporated into the Final Closing Statement for purposes of Section 2.4(d). If Seller and Purchaser are unable to reach an agreement as to any such objections within the Consultation Period, then Seller and Purchaser shall jointly retain Deloitte Touche Tohmatsu LLC, or if Deloitte Touche Tohmatsu LLC is unable or unwilling to act as the Settlement Accountant, then an other independent accounting firm of national reputation as shall be agreed upon by Seller and Purchaser ("Settlement Accountant"). The Settlement Accountant shall act as an expert and not as an arbitrator. The Settlement Accountant shall review the Disputed Items. Any items or amounts that have not been disputed in a Statement of Objections during the Review Period shall be final and binding upon Seller and Purchaser. If any Disputed Item is identified by the Settlement Accountant, Seller, on the one hand, and Purchaser, on the other hand, shall prepare and deliver such reports to the Settlement Accountant and each other within the time period specified in the date the Settlement Accountant is retained. Each of Seller and Purchaser shall deliver to the Settlement Accountant a copy of the other party's written report to deliver to the Settlement Accountant and each other (as applicable). Seller and Purchaser shall not make any further submissions to the Settlement Accountant other than those agreed in writing by Seller and Purchaser; provided, that the Settlement Accountant may request that Seller or Purchaser to answer questions that it deems relevant to the resolution of the Disputed Item, as applicable, shall reasonably cooperate with such request. The Settlement Accountant shall not award a Disputed Item greater than the greatest value for such Disputed Item claimed by either Seller or Purchaser in the Post-Closing Statement or less than the smallest value for such Disputed Item claimed in the Statement of Objections.

Objections or Purchaser in the Post-Closing Statement. The Settlement Accountant's review shall be limited only to the Disputed Items, (ii) based solely on such reports, rebuttals and responses from Seller and Purchaser and the terms of this Agreement including the Accounting Principles (including the review) and (iii) in accordance with the terms and procedures set forth in the Accounting Principles, and consistent with the definitions of Cash, Indebtedness, Net Worth and other terms contained herein. During the review by the Settlement Accountant, each of Seller

respective Subsidiaries and its and their respective Representatives, accountants each make available to the Settlement Accountant reasonable access to personnel and work papers as may be reasonably requested by the Settlement Accountant. Section 2.4(c); provided that the accountants of Seller or Purchaser shall not be obligated to the Settlement Accountant except in accordance with such accountants' normal disclosure procedures, if such Settlement Accountant has signed a customary agreement relating to such materials submitted to the Settlement Accountant shall be provided by Seller or Purchaser in the dispute concurrently with the submission thereof to the Settlement Accountant or Purchaser, as applicable, shall not be obliged to make any work papers available with such accountants' normal disclosure procedures and then only after such agreement relating to such access to work papers. Subject to Section 2.4(h), the Settlement Accountant shall have the sole jurisdiction over, and resort to the Settlement Accountant as provided in this Section 2.4 shall be the sole remedy of the parties against one another with respect to, any disputes arising or any adjustments to, the Purchase Price. The final determination with respect to all matters shall be the Settlement Accountant's basis for such determination, shall be set forth in a written statement to Seller and Purchaser and, absent mathematical or manifest error raised within five (5) business days of the Settlement Accountant's determination and promptly resolved by the Settlement Accountant in the dispute by the Settlement Accountant shall be final, binding and non-appealable or be entered and enforced in any court of competent jurisdiction in accordance with the Settlement Accountant shall be borne by Seller and Purchaser in inverse proportion to the Settlement Accountant's determination of the Purchase Price and the determination of the Purchase Price by Seller and Purchaser. For example, if Seller claims that the Purchase Price is, in the aggregate, \$300 of the \$1,000 contested, then the costs and expenses of the Settlement Accountant shall be 30% to Purchaser and 70% to Seller.

(d) The Post-Closing Statement as agreed to by Seller and Purchaser and the Settlement Accountant is referred to herein as the "Final Closing Statement" and (i) the Cash as of the Closing shall be deemed the final Cash as of immediately prior to the Closing, (ii) the Indebtedness Statement shall be deemed the final Indebtedness as of immediately prior to the Closing, (iii) the Net Working Capital Amount shall be determined as of the end of the Closing Date, (iii) the Net Working Capital Statement shall be deemed the final Net Working Capital

as of the Closing, (iv) the Transaction Expenses set forth on such Final Closing Statement shall be deemed the final Transaction Expenses unpaid as of immediately prior to the Closing and (v) the Purchase Price Statement shall be deemed the final Purchase Price (the "Final Purchase Price").

(e) In the event that the Final Purchase Price is greater than the Cash as of the Closing ("Final Overage"), Purchaser shall deposit, or cause to be deposited, within five (5) Business Days after the date of the Final Closing Statement, with Seller, by wire transfer of immediately available funds, an amount equal to the Final Overage.

(f) In the event that the Closing Purchase Price is greater than the Cash as of the Closing ("Final Underage"), Seller shall deposit, or cause to be deposited, within five (5) Business Days after the date of the Final Closing Statement, with Purchaser, by wire transfer of immediately available funds, an amount equal to the Final Underage.

(g) The parties agree to treat for all applicable Income Tax purposes the Purchase Price as an adjustment to the Purchase Price pursuant to this Section 2.4 as an adjustment to the Purchase Price.

(h) The process set forth in this Section 2.4 shall be the sole remedy of the parties against one another with respect to, any disputes arising or any adjustments to, the Purchase Price. The final determination with respect to all matters shall be the Settlement Accountant's basis for such determination, shall be set forth in a written statement to Seller and Purchaser and, absent mathematical or manifest error raised within five (5) business days of the Settlement Accountant's determination and promptly resolved by the Settlement Accountant in the dispute by the Settlement Accountant shall be final, binding and non-appealable or be entered and enforced in any court of competent jurisdiction in accordance with the Settlement Accountant shall be borne by Seller and Purchaser in inverse proportion to the Settlement Accountant's determination of the Purchase Price and the determination of the Purchase Price by Seller and Purchaser. For example, if Seller claims that the Purchase Price is, in the aggregate, \$300 of the \$1,000 contested, then the costs and expenses of the Settlement Accountant shall be 30% to Purchaser and 70% to Seller.

2.5 Withholding. Each of Purchaser and any other applicable withholding agent shall withhold (or cause to be deducted and withheld) Taxes from any amounts payable to Seller by Purchaser as required by applicable Legal Requirements. Purchaser acknowledges and agrees that it has duly executed IRS Form W-9 in accordance with Section 3.2(d), no withholding is required or expected as of the date of this Agreement to be applicable to the payment of the amounts to Seller. If the Purchaser becomes aware of any obligation to withhold (other than any obligation to withhold amounts that are in the nature of compensation or (b) resulting from Seller's failure to deliver amounts to Seller in accordance with Section 3.2(d)), it shall use commercially reasonable efforts to (i) provide written notice 10 days in advance of any withholding to Seller of the amounts subject to withholding and (ii) provide the opportunity to deliver any forms, documentation or other information necessary to avoid withholding.

ARTICLE III

3.1 Closing, Time and Place. The closing of the Transactions (the “Closing”) shall take place at the offices of Arps, Slate, Meagher & Flom LLP (“Skadden”), 155 North Wacker Drive, Chicago, Illinois 60606, by electronic exchange of documents, at 10:00 a.m. Eastern time on the third (3rd) day after the date on which all of the Closing Conditions are satisfied or, if permissible, waived (other than those conditions which cannot be waived), or as soon thereafter as practicable, unless the Seller and Purchaser may agree in writing. The date on which the Closing occurs is hereby agreed to be the date on which the Closing Conditions are satisfied or, if permissible, waived. For all purposes under this Agreement and each other Transaction Agreement, all obligations shall be deemed to have taken place simultaneously.

(a) the Shares, free and clear of all Encumbrances (other than those required by applicable Law or Legal Requirements), together with certificates evidencing the Shares to the extent required by applicable Law, duly endorsed in blank or with stock powers or a similar instrument of transfer duly executed in accordance with the customary form;

(c) the certificate required to be delivered by Seller pursuant to Section 1.1

(d) an IRS Form W-9 duly executed by Seller;

REFINITIV 

(f) the Seller Debt Facilities Releases.

(a) by wire transfer of immediately available funds, the Closing Pur

(b) a duly executed counterpart to the Transition Services Agreement

(c) the certificate required to be delivered by Purchaser pursuant to

3.4 Payment Mechanics. Any payment to be made pursuant to this Agreement shall be made to the bank account or accounts designated in advance by Seller in writing to Purchaser no later than the Business Day prior to the due date for payment. Any payment to be made pursuant to this Agreement shall be made to the bank account designated in advance by Purchaser in writing to Seller no later than the Business Day prior to the due date for payment. Unless otherwise agreed in writing by Seller and Purchaser, all payments made in transfer under this Agreement shall be in immediately available funds. All payments made pursuant to this Agreement prior to the due date for payment and receipt of the amount due shall be an effective discharge of Seller's obligation to pay the amount due on or after the due date for payment.

REPRESENTATIONS AND WARRANTIES OF S

Except as set forth in the Seller Disclosure Schedule, Seller hereby represents

4.1 Authority; Enforceability.

(a) Seller has the requisite corporate power and authority to execute this Agreement and each other Transaction Agreement to which it is a party, to perform its obligations hereunder, to consummate the Transactions in accordance with this Agreement and each other Transaction Agreement to which it is a party, and the corporate action on the part of Seller to execute, deliver and perform hereunder and thereunder has been duly and validly authorized by all necessary corporate action on the part of Seller and has not been subsequently modified or rescinded. No vote or approval of the holders of any class of securities of Seller is necessary for the execution, delivery or performance by Seller of this Agreement and each other Transaction Agreement to which Seller is a party or the consummation by Seller of the Transactions in accordance with this Agreement and each other Transaction Agreement to which it is a party.

(b) This Agreement has been duly and validly executed and delivered by Seller with the due authorization, execution and delivery of this Agreement by Purchaser and Purchaser hereby acknowledges its legal obligation of Seller, enforceable

against Seller in accordance with the terms hereof. Assuming due authorization of the Transaction Agreement to which Seller is a party by the other parties thereto, this Agreement shall constitute a valid and binding legal obligation of Seller at the time of execution hereof in accordance with the terms thereof.

4.2 Non-Contravention; Consents

(a) The execution and delivery of this Agreement by Seller, and each Seller is a party by Seller, does not, and the performance of this Agreement Agreement to which Seller is a party by Seller, will not, require any Consent or P with, or notification to, any Governmental Authority (other than as a party to any customer of any Government Contract), except (i) under applicable Antitrust Laws, the Securities Exchange Act of 1934 (the "Exchange Act"), (iii) for such other Con: failure of which to make or obtain would not reasonably be expected to have, in Adverse Effect or prevent or materially delay the consummation of the Transaction: Clearance and DCSA Approvals, (v) under Section 122.4(b) of the ITAR and (vi) th solely by reasons of the regulatory status or operations of Purchaser or its Affiliates

(b) Assuming the Consents, Permits, registrations, declarations Section 4.2(a) are obtained or made, the execution and delivery by Seller of this Agreement to which Seller is a party, and the consummation of the Transaction provision of the organizational documents of Seller or any applicable Acquired reasonably be expected to have, individually or in the aggregate, a Material Advers consummation of the Transactions, (A) result in a breach of, constitute a default time, or both), result in the creation or acceleration (or loss of benefit from) of any ri party the right to accelerate, terminate, modify or cancel, any Material Contract (o after the date of this Agreement that is a Pending Bid Contract, for which a Materia Purchaser consents in writing into the entry thereof); (B) result in the creation or im a Permitted Encumbrance) upon, or the grant, assignment or transfer to any othe interest under, any of the assets or businesses of the Acquired Companies or, to th any of its Controlled Affiliates; or (C) violate any Legal Requirement.

4.3 Organization; Acquired Companies.

(a) Seller is duly incorporated, validly existing and in good standi jurisdiction of its incorporation, except as would not reasonably be expected to m from consummating the Transactions or otherwise prevent Seller from performi hereunder. Seller has all necessary corporate power and authority to conduct its b conducted as of the date of this Agreement, except where the absence of such pow

conduct its business would not reasonably be expected to materially impair or m the Transactions or otherwise prevent Seller from performing in all material respects:

(b) Each of the Acquired Companies (i) is duly organized, incorp good standing (to the extent such concept is recognized) under the Legal Requirem incorporation or formation, in all material respects and (ii) has all necessary organ the Business in the manner in which it is being conducted as of the date of this Agre

(c) Each Acquired Company is duly qualified or licensed to do t property and assets owned, leased or operated by it, or the nature of the business or licensing necessary, except where the failure to be so duly qualified or licensed v (i) be (or reasonably be expected to be) material to the Acquired Companies, take delay the consummation of the Transactions.

(d) Schedule 4.3(d) of the Seller Disclosure Schedule sets forth : each Acquired Company, the jurisdiction in which each such Acquired Company thereof (including the authorized capitalization, number of outstanding shares of e interest and the record and beneficial owners thereof), in each case, as of the Companies do not own, directly or indirectly, any capital stock, shares, member: rights, interests or other securities or derivatives in any Person (other than the Cc Agreement.

(e) All of the outstanding shares of each Acquired Company are validly issued and outstanding, fully paid and non-assessable and legally and be Seller, free and clear of all Encumbrances (other than restrictions on transfer im and Encumbrances that will be released at or prior to the Closing). All of the outsta have been issued in all material respects in compliance with applicable Legal Req of such Acquired Company or any Contract to which such Acquired Company is sul preemptive, subscription or similar right under any provision of any of the foregoing.

(f) None of Seller nor any of the Acquired Companies is the liquidation, reorganization or similar proceeding.

(g) Seller has made available to Purchaser accurate and comple organizational documents of each Acquired Company as in effect as of the date of t

4.4 Title; Shares.

(a) Seller is the sole record and beneficial owner of all of the outst the Shares and has full power and authority to transfer and

deliver the Shares to Purchaser (or a Purchaser Designee) at the Closing, free ar restrictions on transfer imposed by applicable Legal Requirements and Encumbran Closing). Upon the Closing, Purchaser (or a Purchaser Designee) shall be the sole outstanding Shares, free and clear of all Encumbrances (other than restrictions Requirements). Except pursuant to this Agreement, there is no obligation pursuar Affiliates have granted any option, warrant or other right to any Person to acquire, r

(b) The Shares are duly authorized, validly issued, fully paid and i and clear of all Encumbrances (other than restrictions on transfer imposed Encumbrances that will be released at or prior to the Closing). Except for the Share or other voting or equity interests in the Company that are issued, reserved for issu of capital stock of or other voting or equity interests in the Company Subsidiary t outstanding that are not directly owned by the Company.

(c) There are no outstanding warrants, options, rights, ag exchangeable securities or outstanding or authorized appreciation, phantom intere other commitments (i) pursuant to which any Acquired Company is or may becom or grant (A) any shares of capital stock of or other voting or equity interests in a convertible into, or exercisable or exchangeable for, any shares of capital stock o Acquired Company, (ii) pursuant to which any Acquired Company is or may becom or grant any such warrant, option, right, unit, security, commitment or undertaking (iii) that gives any Person the right to receive any benefits or rights similar to any ri of the Shares or any shares of capital stock of or other voting or equity interests voting trusts, proxies or other agreements or undertakings with respect to the vo Shares or any shares of capital stock of or other voting or equity interests in any Ac

4.5 Financial Information; Liabilities.

(a) Schedule 4.5(a) of the Seller Disclosure Schedule sets for Business (not including Topaz) for the fiscal period ended June 30, 2023 (the “Late unaudited statement of income of the Business and the unaudited balance sheets December 31, 2022 and December 31, 2021, along with the related unaudited sta Business for each of such foregoing periods (collectively, the “Financial Statements Section 4.5(b)), the Financial Statements (i) have been prepared in good faith ii respects, (ii) present fairly in all material respects the financial condition and result dates and for the periods therein specified and (iii) have been derived from books i by management of the Acquired Companies in all material respects in accordance v

(b) The Financial Statements are limited by the fact that the Acquired Companies are separate "stand-alone" entities apart from Seller. Purchaser acknowledges that the Financial Statements do not necessarily be indicative of the conditions that would have existed or the results achieved if the Acquired Companies had been operated as an unaffiliated company.

(c) There are no Liabilities of the Business of any nature, whether or not incurred, that would be required to be reflected on a balance sheet or notes thereto of the Acquired Companies in accordance with GAAP, other than such liabilities or obligations (i) that are specifically reflected on the Latest Balance Sheet, (ii) incurred in the ordinary course of business since the date of this Agreement, not, individually or in the aggregate, be (or reasonably be expected to be) material to the Business, or prevent or materially delay the consummation of the Transactions, (iii) that are known by the Acquired Companies at the time of the Transactions or the announcement, negotiation, execution or performance of the Transactions, (iv) that have been (or will be prior to the Closing) fully discharged or released by the Acquired Companies or (v) that otherwise would not reasonably be expected to be material to the Acquired Companies, taken as a whole, or prevent or materially delay the consummation of the Transactions.

(d) The system of internal controls over financial reporting of the Acquired Companies is designed to provide reasonable assurance (i) that all financial transactions are properly recorded, (ii) that financial transactions are properly authorized, (iii) that financial statements are accurately prepared in accordance with GAAP and (iv) that no unauthorized acquisition, use or disposition of the assets of the Acquired Companies has occurred.

(e) As of the Closing, there shall be no Retained Liabilities of the Acquired Companies of any nature, whether or not accrued, contingent or otherwise.

4.6 Absence of Certain Changes.

(a) (i) Since December 31, 2022, the Business has been conducted in accordance with its past practice in all material respects, except (A) in connection with the Transaction Agreement and the other Transaction Agreements and (B) as otherwise contemplated by this Agreement, none of the Acquired Companies (or Seller or any of its other subsidiaries or affiliates or the Business) has (individually or in the aggregate) taken any action (or failure to act) that, if such action (or failure to act) were to be taken between the date hereof and the Closing, would be material to the Business, or prevent or materially delay the consummation of the Transactions, or otherwise be in violation of the Purchaser's consent pursuant to clause (i), (iii), (iv), (v), (vi), (vii), (ix), (x), (xi), (xii), (xx), (xxi) or (xxii) of Section 6.1(a)(2).

(b) Since December 31, 2022, there has not been any event, change or circumstance that, if such event, change or circumstance were to occur between the date hereof and the Closing, would be material to the Business, or prevent or materially delay the consummation of the Transactions, or otherwise be in violation of the Purchaser's consent pursuant to clause (i), (iii), (iv), (v), (vi), (vii), (ix), (x), (xi), (xii), (xx), (xxi) or (xxii) of Section 6.1(a)(2).

4.7 Compliance with Legal Requirements. Since January 1, 2021, the Business (including Seller and its other Controlled Affiliates with respect to the Business), (a) have been in compliance with all applicable Legal Requirements and (b) have not received any written notice from any Governmental Authority or to the extent related to the Business, Seller or any of its other Controlled Affiliates of any violation of any applicable Legal Requirement, except, in the case of each of the foregoing clauses (a) and (b), compliance which would not reasonably be expected to, individually or in the aggregate, be material to the Business, or prevent or materially delay the consummation of the Transactions, or otherwise be in violation of the Purchaser's consent pursuant to clause (i), (iii), (iv), (v), (vi), (vii), (ix), (x), (xi), (xii), (xx), (xxi) or (xxii) of Section 6.1(a)(2).

4.8 Material Contracts.

(a) Schedule 4.8(a) of the Seller Disclosure Schedule lists, as c following Contracts (including, for the avoidance of doubt, Government Contracts) t to the extent relating to the Business, Seller or any of its other Controlled Affiliates, of the foregoing in clauses (x) or (y) (but with respect to clause (y), only to the e (other than Benefit Plans) (such Contracts, and each other Contract entered into al have been required by this Section 4.8(a), to have been included on Schedule 4, entered into prior to the date of this Agreement, the “Material Contracts”):

(1) any Contract with a Key Customer (other than any sucl are not material or any purchase orders that are consistent with any agreec set forth on Schedule 4.8(a)(i) of the Seller Disclosure Schedule);

(2) any Contract with a Key Vendor (other than any such i not material or any purchase orders that are consistent with any agreed over on Schedule 4.8(a)(ii) of the Seller Disclosure Schedule);

(3) any Contract that requires (A) the Acquired Compan Business, Seller or any of its other Controlled Affiliates to deal exclusively wi or purchase of any product or service and such Contract involves payment cannot be terminated by the Acquired Companies or Seller or any of its Cont (60) days’ or less notice without penalty or other financial recourse;

(4) any Contract that relates to an acquisition or divestitu clarity, not including ordinary course commercial arrangements) or business of stock or other equity,

sale of assets or otherwise) with a purchase price in excess of \$10,000,000 or other obligations that remain in effect or (B) if such acquisition or divestur such acquisition or disposition of assets in the ordinary course of business a Business;

(5) any Contract relating to Indebtedness of the Acquired C in excess of \$10,000,000, except for any Indebtedness that will be discharg ongoing Liability to the Business or any Acquired Companies;

(6) any Contract that creates any Encumbrance (other tha Owned Real Property, any Leased Real Property or any material asset of an;

(7) any Contract pursuant to which (A) any Acquired Cor Business, Seller or any of its other Controlled Affiliates has made or is requir of credit or capital contribution to, or other investment in, any Person (othe the ordinary course of business), in each case, in an amount exceeding, indi

(8) any material joint venture, partnership, collaboration or ji

(9) any Contract pursuant to which (A) an outbound license to the extent relating to the Business, Seller or its Controlled Affiliates, (Acquired Company or, to the extent relating to the Business, Seller or its Co (B), to any Intellectual Property material to the Business or (C) the Bu enforceability of, any material Owned IP is otherwise materially affected, (prc (with or without the occurrence of any condition or other event) shall be d clauses (A) and (B), and (y) any Contract to (with or without the occurrence or assign, or materially affect the validity or enforceability of, any material Ov referenced in clause (C)), in each case of (A) through (C), other than Contra generally commercially available Software, services, hardware or other techni of business, (2) in which grants of non-exclusive rights to use Intellectual Pro

performance under the Contract, (3) with customers that are non-exclusive in business or (4) relating to development of Owned IP by contractors or employees;

(10) any Collective Bargaining Agreement;

(11) the Real Property Leases;

(12) any Contract involving the resolution or settlement of any dispute that imposes monetary obligations in excess of \$5,000,000 or any

material non-monetary obligations (other than customary confidentiality obligations) into after January 1, 2021 or (B) has any material continuing obligations or commitments (including any Acquired Company) to the extent relating to the Business;

(13) any Contract that requires capital expenditures (including more than \$10,000,000 by any of the Acquired Companies or the Business;

(14) any Contract that by its terms limits or restrains (or purports to limit or restrain) any Acquired Company or the Business from competing with any Person and

(15) any Contract that involves annual revenue or payment that contains a "most favored nation" provisions or any similar requirements applicable to any Acquired Company or the Business from and after the Closing, right of first negotiation, right of first offer or similar option in favor of any other

(b) Except as would not, individually or in the aggregate, be or reasonably expected to be a Material Contract, Seller shall not, and shall ensure that the Acquired Companies, taken as a whole, or to prevent or materially delay the consummation of the Business Combination, the Material Contracts is in full force and effect (other than any expirations at the end of the term of any such Material Contract) and enforceable by Seller or its affiliates in accordance with its terms, (ii) there exists no default under any such Material Contract or any party thereto or, to Seller's Knowledge and as of the date of this Agreement, (iii) there exists no event or circumstance with respect to Seller or its affiliates or, to Seller's Knowledge and as of the date of this Agreement, any other party to or lapse of time or both) would create a default under any of the Material Contracts that would cause or permit the acceleration of or other changes of or to any right thereunder and (iv) as of the date of this Agreement, there exists no actual cancellation of any Material Contract. As of the date of this Agreement, neither Seller nor any of its Controlled Affiliates has served written notice on (or received written notice from) a counterparty to a Material Contract of material nature by such counterparty or Seller or any of its Controlled Affiliates, as set forth on Schedule 4.8(b) of the Seller Disclosure Schedules, Seller has made available to the Buyer a copy of each Material Contract that is in effect as of the date of this Agreement.

(c) Set forth on Schedule 1.1(d) of the Seller Disclosure Schedule nine (9) customers or programs of the Business, as determined by revenue for the period ended December 31, 2022. Set forth on Schedule 1.1(e) of the Seller Disclosure Schedule the top twenty (20) vendors or programs that provide services or products to the Business and the aggregate spend of the Business for the twelve (12)-month period ended December 31, 2022.

(d) Set forth on Schedule 4.8(d) of the Seller Disclosure Schedules the names of the parties to each Material Contract with respect to the business of Topaz.

(e) The general terms and conditions of purchase set forth on Schedule are the general terms and conditions of purchase that govern the Cont Seller Disclosure Schedule for items (14), (15), (16), (18), (23), (24), (25), (26) and Disclosure Schedule for items (25), (26), (27), (28), (29), (30), (31), (32) and (33) in referenced in such Contracts.

4.9 Litigation. (a) There is no Proceeding pending (and since January 1, pending) or, to Seller's Knowledge, threatened in writing, against or affecting the Ac the extent related to the Business, Seller or any of its other Controlled Affiliates a the Business or, to the extent related to the Business, Seller or any of its other C January 1, 2021) subject to any Orders, in the case of each of the foregoing clau: expected to, individually or in the aggregate, be material to the Acquired Comp materially delay the consummation of the Transactions.

4.10 Insurance. Schedule 4.10 of the Seller Disclosure Schedule contain: hereof of all material insurance policies covering the Business or the Acquired Cor whether such policies have been issued to Seller, the Acquired Company or any of Listed Insurance Policies are in amounts and cover such risks as are reasona Acquired Companies, taken as a whole, and sufficient for compliance in all materia to the extent related to the Business, Seller or any of its other Controlled Affiliate Insurance Policies are in full force and effect (except for ordinary course termina which substitute or replacement insurance is obtained therefor), all premiums du Seller is not in default with respect to any other obligations thereunder, and no wr termination or material limitation of coverage, in whole or in part, with respect to a in force, has been received by Seller. As of the date hereof, no event has occur result in the cancellation, non-renewal, termination or material limitation of coverage As of the date hereof, there are no material claims pending under any of the List Business or the Acquired Companies as to which the respective insurer has den reserved rights.

4.11 Intellectual Property.

(a) Except as otherwise restricted by an Order by the U.S. Patent Patents, Schedule 4.11(a) of the Seller Disclosure Schedule sets forth a true a Agreement, of all (i) issued Patents and Patent applications, (ii) Trademark regis Copyright registrations and Copyright applications and (iv) domain name registrati IP (such Intellectual Property, the "Company Registered IP"). Except for (A)

the Seller Transitional Trademarks and (B) Intellectual Property associated with Companies pursuant to the Transition Services Agreement, neither Seller nor any Acquired Companies) own any right, title, or interest in any Intellectual Property use Business as of the date hereof or as of the Closing Date.

(b) All Company Registered IP is subsisting, and other than Knowledge, is valid and enforceable. As of the Closing Date, an Acquired Comp possess all right, title and interest in and to each item of material Owned IP, free c Encumbrances.

(c) Except as would not reasonably be expected to be materially have invented or developed (in whole or part) any material Owned IP for or on written assignment to an Acquired Company of exclusive ownership of all In ownership in such Owned IP automatically vested in an Acquired Company by oper

(d) Except as would not reasonably be expected to be materially personnel, or facilities of any Governmental Authority or any university or other edu

(e) Since January 1, 2021, there has been no Proceeding pending or threatened by or on behalf of the Acquired Company or Seller or its Controlled Affiliates with respect to the Business or the Business is infringing, misappropriating or otherwise violating in any material respect any Intellectual Property of the Acquired Company, or challenging any Acquired Company's ownership, or the validity or enforceability, of any Intellectual Property of the Acquired Company, or that is not reasonably to be expected to be materially adverse to the Business, the conduct of which would constitute a breach of the 2021, infringed, misappropriated or otherwise violated the Intellectual Property of any Acquired Company.

(g) The Acquired Companies have taken commercially reasonable measures to protect their Trade Secrets in their possession or control that are material to the operation of the Business. There has been no unauthorized access or use of any such Trade Secrets, except as may be necessary in the ordinary course of the Business, and no such unauthorized access or use has been materially adverse to the Business.

(h) Since January 1, 2021, (i) the conduct of the Business has been in compliance with Data Protection Laws, (ii) the Business has not experienced any material Cybersecurity Incident, and (iii) no litigation or regulatory action involving the Business has been pending or

threatened in writing against the Business alleging a material violation of any Perso

(i) None of the material Software included in the Owned IP is licensed to the Licensee for use in a manner that would (i) require its disclosure to any Person in source code form for the purpose of making derivative works or (iii) require the licensing thereof at no or reduced cost to any Person.

(j) Except as has not been or as would not reasonably be expected, Business, (i) since January 1, 2021, there have been no failures of the Business Systems free from Malicious Code. The Acquired Companies have taken commercially reasonable procedures designed to (i) ensure that the Business Systems are free from the security and integrity of the Business Systems and the data hosted or processed by the Business Systems.

(a) (i) Schedule 4.12(a)(i) of the Seller Disclosure Schedule sets forth a true and complete list of all real property which, at the Closing, is contemplated by the Real Estate Reorganization Plan, will be owned by an Acquired Company together with all buildings, structures, improvements and fixtures located thereon. Each applicable Acquired Company has (or at the Closing, will have) good and valid title to such Property, free and clear of any and all Encumbrances except Permitted Encumbrances (other than reasonably be expected to be), individually or in the aggregate, materially adverse to the Companies, taken as a whole, or except as set forth on Schedule 4.12(a) of the Seller Disclosure Schedule. The Permitted Encumbrances, neither the Acquired Company, nor to the extent relevant, the Controlled Affiliates, has leased or otherwise granted to any Person (other than a Seller) a right to use or occupy any Owned Real Property or any material portion thereof. Pursuant to this Agreement, there are no outstanding options, rights of first offer or other rights in Owned Real Property or any material portion thereof or interest therein and (iii) no outstanding Contract or option to purchase any real property or interest therein.

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effect as of the date of this Agreement and (ii) Schedule 4.12(b)(ii) of the Seller Disclosure Schedule sets forth a complete list of all real property leases and subleases under which, after completion of the Real Estate Reorganization Plan, an Acquired Company will have or sublease in (i) and (ii), a "Real Property Lease," and such properties, the "Lease" (or reasonably be expected to be), individually or in the aggregate, materially and adversely affect the operations of the Acquired Companies,

taken as a whole, or as set forth on Schedule 4.12(b) of the Seller Disclosure Schedule, the Company's possession and quiet enjoyment of the Leased Real Property under the Lease is not being or likely to be disturbed, (ii) no Acquired Company has subleased, licensed or otherwise granted to any third party (other than the Company) the right to use or occupy any Leased Real Property or any material part thereof, and (iii) no Acquired Company has collaterally assigned or granted any security interest in any Real Property except in favor of the landlord pursuant to the terms of the applicable Real Property Lease Requirements.

4.13 Labor Matters.

(a) Schedule 4.13(a) of the Seller Disclosure Schedule sets forth the most recent payroll date preceding the date of this Agreement, of each Direct Employee, the employee's name, (ii) job title, (iii) work location (by state), (iv) hire date, (v) annual base salary or hourly wage, (vi) non-exempt classification (as applicable), (vii) active or inactive status, (viii) full-time or part-time status, and (ix) the Company's estimate of the employee's total compensation for the year ending on the date of this Agreement. The Company Employees are sufficient in number and skill to operate the Business as it was operated immediately prior to the Closing. Other than the Company and its Controlled Affiliates (other than the Acquired Companies) employ or otherwise engage any person whose principal working time is spent performing services on behalf of the Business.

(b) There are no Collective Bargaining Agreements to which an Acquired Company or to which Seller or any of its Controlled Affiliates is a party or bound by and to which the Company Employees and Former Company Employees, since January 1, 2021, have been or may be subject to grievance, material labor arbitration, strike, lockout, slowdown, work stoppage, picket line, or material labor dispute pending or, to Seller's Knowledge, threatened. No labor union or works council represents or, to Seller's Knowledge, threatens to represent any Company Employees or Former Company Employees with their employment with Seller or any of its Controlled Affiliates (including the Acquired Companies).

(c) Each of the Acquired Companies and Seller and its Controlled Affiliates (other than the Company Employees and Former Company Employees) is, and since January 1, 2021, has materially complied with all applicable Legal Requirements regarding labor, employment, and workplace safety.

(d) To Seller's Knowledge, since January 1, 2021, the Acquired Companies and Seller and its Controlled Affiliates have thoroughly and impartially investigated and resolved all allegations of harassment, discrimination, retaliation or policy violation against officer, director, or level employees. With respect to each such allegation (except those that the applicable law or the Acquired Companies (as applicable) reasonably deemed to not have merit), Seller and its Controlled Affiliates (as applicable) has taken prompt corrective action reasonably designed to prevent such conduct from recurring. There are no such

allegations of harassment or discrimination pending or, to Seller's Knowledge, threatening to bring the Acquired Companies or the Business into material disrepute.

4.14 Employee Benefits.

(b) Except as would not, individually or in the aggregate, reason Business and the Acquired Companies, taken as a whole, each Benefit Plan has been in compliance in form and operation with applicable Legal Requirements and in accordance with the applicable provisions of the ERISA, no action, suit, proceeding, audit or investigation is pending or, to Seller's Knowledge, threatened or anticipated by any governmental authority, or by any third party, other than routine claims for benefits payable in the ordinary course, and appeals of denials of claims.

(d) Except as otherwise provided in this Agreement, neither the consummation of the Transactions will (whether alone or together with any other event) become due to any Company Employee, Former Company Employee or other individual who is a Company (or any dependent or beneficiary thereof), (ii) increase any payment or benefit payable to any Person described in clause (i), (iii) result in any acceleration of the time of payment of any payment or benefit (whether or not otherwise) or vesting of any payments or benefits to any such Person described in clause (i), (iv) result in any termination or modification of any benefits under any agreement, plan or arrangement with Seller or any of its Companies) that, individually or in combination with any other payment or benefit payable to any such Person, would constitute an "excess parachute payment" within the meaning of Section 280G of the Code or Section 4999 of the Code.

(f) With respect to each Pension Plan, (i) no reportable event under ERISA, other than an event for which the reporting requirements have been waived, has been or is reasonably expected to occur with respect to the Business Pension Plan, or, to the best of the Company's knowledge, with respect to any of its other Controlled Affiliates, any other Pension Plan, except as would not be expected to result in material Liability to an Acquired Company, (ii) no Acquired Company or, except as would not be expected to result in material Liability to an Acquired Company, any ERISA Affiliate has failed to file a reportable event under Sections 412 and 430 of the Code and Section 302 of ERISA on a timely basis, and (iii) no Acquired Company has arisen under ERISA or Section 430(k) of the Code, or any ERISA Affiliate has arisen under ERISA or Section 430(k) of the Code with respect to the Business Pension Plan, except as would not be expected to result in material Liability to an Acquired Company.

Business, Seller or any of its other Controlled Affiliates, any other Pension Plan expected to result in material Liability to an Acquired Company, (iv) all premiums (a payment, if applicable) have been paid when due to the Pension Benefit Guaranty Pension Plan or to the extent related to the Business, Seller or any of its other Cor except as would not reasonably be expected to result in material Liability to an Ac incurred under Section 4062(e) of ERISA with respect to the Business Pension Plan Seller or any of its other Controlled Affiliates, any other Pension Plan, except as w in material Liability to an Acquired Company and (vi) timely notice required under § participants and beneficiaries affected by a Business Pension Plan amendment (Seller or any of its other Controlled Affiliates, any other Pension Plan amendme reduction of the rate of future benefit accruals, except as would not reasonably be an Acquired Company.

(g) Each Benefit Plan that constitutes in any part a “nonqualified under Section 409A(d)(1) of the Code) subject to Section 409A of the Code has material respects in operational compliance with, and is in all material respects in 409A of the Code, and no amount under any such Benefit Plan has been or is in interest or additional Taxes imposed under Section 409A of the Code.

4.15 Taxes.

(a) Each of the Acquired Companies has timely filed, or has caused to be filed, material Tax Returns required to be filed by it (taking into account any extensions Returns are true, correct and complete in all material respects. All material amount on behalf of the Acquired Companies (whether or not shown on any such Tax Return) Acquired Companies, other than Topaz, is, and has been since its formation, proper federal (and applicable state and local) income tax purposes. Topaz is, and has been as an entity disregarded as separate from (i) with respect to periods prior to the consummation of Ball Packaging, LLC and (ii) with respect to periods following the consummation of Subsidiary, for U.S. federal (and applicable state and local) income tax purposes.

(b) No claim has been made in writing by a Tax Authority in a jurisdiction in which the Acquired Company does not file Tax Returns that such Acquired Company is or may be subject to taxation in that jurisdiction, which claim has not been satisfied, withdrawn, settled or otherwise resolved, and the Acquired Company is not subject to taxation in any country, other than the country in which it was organized or has its principal establishment (within the meaning of an applicable income tax treaty) or other fixed establishment.

(c) There is no pending or ongoing material dispute, audit or proceeding for the assessment of liability of any Acquired Company, and no such dispute, audit or proceeding has been initiated by a Tax Authority in writing. No Acquired Company has received any written notice of assessment, underpayment with respect to any material Taxes, which adjustment, deficiency or payment or otherwise resolved with no further liability to any Acquired Company.

(d) There are no outstanding Encumbrances for material Taxes payable on the assets of any Acquired Company.

(e) Each of the Acquired Companies has (i) withheld and timely remitted all material amounts of Taxes required to have been withheld and paid in connection with the compensation of any employee, independent contractor, client, creditor, customer or other Person, (ii) complied with all material amounts required to be remitted pursuant to any applicable tax authority's requirements and (iii) complied in all material respects with all related reporting and disclosure requirements of the matters described in the foregoing clauses (i) and (ii).

(f) No Acquired Company has waived or extended any statute of limitations for the assessment of material Tax Return, which waiver or extension is currently in effect, and no extension of the statute of limitations is currently in effect.

Tax Return of any Acquired Company is currently in effect, in each case, other than an Income Tax Return.

(g) No Acquired Company (i) is a party to, or bound by, any Tax Contract, other than pursuant to a Commercial Tax Agreement, (ii) has ever been consolidated U.S. federal income Tax Return (or any corresponding group under state, local or foreign Legal Requirements), other than such a group the common parent of which is Seller, (iii) has any liability to Seller or another Acquired Company, under Treasury Regulations Section 1.1502-6 (or any corresponding provisions of state, local or foreign Legal Requirements), as a transferee or successor, by assumption or otherwise (other than pursuant to any Commercial Tax Agreement) or (iv) has any liability described in Treasury Regulations Section 1.6011-4(b)(2) (or any corresponding provisions of state, local or foreign Legal Requirements).

(h) No Acquired Company will be required to include any material item of deduction from, taxable income for any taxable period (or portion thereof) resulting from any: (i) change in method of accounting, or use of an improper method of accounting, (ii) "closing agreement" as described in Section 7121 of the Code (or any corresponding provisions of state, local or foreign Legal Requirements) executed prior to the Closing, (iii) intercompany transaction described in the Treasury Regulations under Section 1502 of the Code (or any corresponding provisions of state, local or foreign Legal Requirements) entered into or created prior to the Closing or (v) prepaid amount received or paid prior to the Closing Date.

(i) No Acquired Company has distributed the stock of another Person in the last two (2) years in a transaction that was purported or intended to avoid the application of Section 355 (or so much of Section 356 of the Code as relates to Section 355 of the Code) or any corresponding provisions of state, local or foreign Legal Requirements).

4.16 Sufficiency of Assets. The assets, rights, properties and interests owned by the Acquired Companies as of the Closing, together with the services to be provided by Seller to the Acquired Companies pursuant to the Transition Services Agreement, are sufficient for, and constitute all of the assets, real and personal, necessary for, the conduct of the Business immediately following the Closing. The Acquired Companies shall be deemed to expand the scope of any other representations or warranties made by them to avoid any doubt, the foregoing representation shall not be deemed to be a representation.

4.17 Environmental Matters. Except as would not, individually or in the aggregate, be material to the Acquired Companies, taken as a whole, or to prevent or materially interfere with the Business, or to prevent or materially interfere with the Business, (a) since January 1, 2021, the Business and each of the Acquired Companies, each of Seller and its other Controlled Affiliates) has been in compliance with all applicable Environmental Laws; (b) since January 1, 2021, neither the Business nor any Acquired Company

nor, with respect to the Business, Seller or any of its other Controlled Affiliates, has received any report, order, or directive and there are no Proceedings pending or, to Seller's Knowledge, threatened in each case alleging that the Business or any Acquired Company (or, with respect to the Business, Seller or any of its other Controlled Affiliates) is in violation of or liable under any Environmental Law, except for Proceedings that have been fully and finally resolved with no further action required of the Business or the Acquired Companies nor, to Seller's Knowledge, any other Person result in material liability of any Acquired Company (nor, with respect to the Business, Seller or any of its other Controlled Affiliates) has treated, stored, disposed of, arranged for the disposal of, transported or exposed any Person to, and none of the facilities or real properties currently or for

or any Acquired Company (or, with respect to the Business, Seller or any of its other Controlled Affiliates) impacted by the release or disposal of, Hazardous Materials, in each case, as well as any liabilities pursuant to any Environmental Laws.

4.18 Certain Business Practices.

(a) Since January 1, 2018, none of the Acquired Companies or, to the extent related to the Business, Seller or any of its other Controlled Affiliates (including, to the extent related to the Business, Seller or any of its other Controlled Affiliates, directors, employees or, to Seller's Knowledge, agents) has used any corporate funds for entertainment or other unlawful expenses relating to political activity, made any payment to any Governmental Authority, or made any unlawful bribe, rebate, payoff, influence payment, in each case in material violation of any Anti-Corruption Law.

(b) Since January 1, 2018, the Acquired Companies and, to the extent related to the Business, Seller or any of its other Controlled Affiliates have (i) kept books, records and accounts, which fairly reflect their respective transactions and dispositions of their respective assets and (ii) implemented on their behalf a system of internal accounting controls, in each case in material compliance with applicable Laws.

(c) Since January 1, 2018, none of the Acquired Companies or, to the extent related to the Business, Seller or any of its other Controlled Affiliates (including, to the extent related to the Business, Seller or any of its other Controlled Affiliates, directors, employees or, to Seller's Knowledge, agents) have transacted business with any Sanctioned Person or in any Sanctioned Territory in violation of applicable Sanctions Laws or other applicable Trade Laws in any material respect and applicable Sanctions Laws.

(d) As of the date of this Agreement, none of the Acquired Companies, the Business, Seller and each of its other Controlled Affiliates, nor any of their respective directors, employees or, to Seller's Knowledge, agents, is a Sanctioned Person.

(e) Since January 1, 2018, no Acquired Company or, to the extent related to the Business, Seller or any of its other Controlled Affiliates, has received any allegation, inquiry,

notice or communication from any Governmental Authority that alleges that any Acquired Company, the Business, Seller or any of its other Controlled Affiliates (including, to the extent related to the Business, Seller or any of its other Controlled Affiliates, directors, employees or, to Seller's Knowledge, agents) may have made any material voluntary or directed disclosure or prior disclosure related to any Sanctioned Person, Sanctioned Territory or Sanctions Laws or Trade Laws or Sanctions Laws.

4.19 Government Contracts.

(a) Each Government Contract that is also a Material Contract for which, as of the date of this Agreement, expired or terminated, final payment has not been received or which remains a "Government Contract" was legally awarded. As of the date of this Agreement, no Acquired Company, the Business, Seller or any of its other Controlled Affiliates have entered into any Government Contract or proposal for a Material Government Contract is the subject of any Government Contract.

(b) Since January 1, 2021: (A) no Governmental Authority has notified any of the Acquired Companies, the Business, Seller or any of its other Controlled Affiliates in writing of any applicable Legal Requirement or contract term that could be reasonably expected to adversely affect any receivable or the award of any Material Government Contract in the future, (B) the extent related to the Business, Seller or any of its other Controlled Affiliates has not received any cause notice, stop work order or deficiency notice relating to any the Material Government Contract that could be reasonably expected to adversely and materially affect the collectability of any receivable or the award of any Material Government Contract in the future and (C) no Material Government Contract awarded to any Acquired Company, the Business, Seller or any of its other Controlled Affiliates has been terminated.

to perform and no such Acquired Company or, to the extent related to the Business, any of its other Controlled Affiliates has been threatened in writing with termination for default or cause that would constitute a Material Government Contract.

(c) Since January 1, 2021, none of the Acquired Companies (or, to the extent related to the Business, Seller or any of its other Controlled Affiliates) or any of their respective Principals (as defined in 28 CFR 2.101 and 52.209-5) have been debarred, suspended or proposed for exclusion from participation in the award of any Government Contract.

(d) Since January 1, 2021, except as would not reasonably be expected to be material to the Business or the Acquired Companies, taken as a whole, consummation of the Transactions: (i) all pricing discounts have been properly received under any Government Contract; (ii) none of the Acquired Companies or, to the extent related to the Business, any of its other Controlled Affiliates has received any notice of any interruption or suspension of products or services under any Government Contract; (iii) all

certified cost or pricing data submitted in connection with each has been accurate, and no claims submitted for payment, reimbursement or adjustment submitted by each of the Acquired Companies or, to the extent related to the Business, Seller or any of its other Controlled Affiliates in connection with the Transactions, are current, accurate and complete in all material respects as of their respective submission dates; (v) no current or unsettled allegations of fraud, false claims or overpayments nor any related investigations or proceedings by any Governmental Authority; (vi) all representations, certifications and statements executed, acknowledged or submitted by each of the Acquired Companies (or, to the extent related to the Business, Seller or any of its other Controlled Affiliates) or any other Person in connection with any Government Contract are complete in all material respects as of their respective effective dates and each of the Acquired Companies (or, to the extent related to the Business, Seller or any of its other Controlled Affiliates) has provided true and accurate representations, certifications and statements; (vii) each of the Acquired Companies (or, to the extent related to the Business, Seller or any of its other Controlled Affiliates) has implemented and maintained a system of internal controls appropriate for the operations of the Business that are in compliance with the relevant and applicable requirements of the Government Contracts; (viii) there have been no disputes with the Acquired Companies (or, to the extent related to the Business, Seller or any of its other Controlled Affiliates) arising under or relating to any Government Contract; (ix) none of the Acquired Companies (or, to the extent related to the Business, Seller or any of its other Controlled Affiliates), nor any of its management or employees (to the extent related to the Business), has been under investigation by any civil or criminal investigation, indictment, information lawsuit, subpoena, document production request or audit pertaining to an alleged or potential violation of any requirement, regulation or law relating to a Government Contract; (x) other than in the ordinary course of business, none of the Acquired Companies (or, to the extent related to the Business, Seller or any of its other Controlled Affiliates) has conducted or caused to be conducted a voluntary disclosure or been under any obligation to disclose to any Governmental Authority any alleged or potential irregularity, misstatement or omission arising under or relating to a Government Contract; and (xi) each of the Acquired Companies (and, to the extent related to the Business, Seller or any of its other Controlled Affiliates) has complied in all material respects with the Legal Requirements for safeguarding information and incident reporting.

(e) Each of the Acquired Companies (and, to the extent related to the Business, Seller or any of its other Controlled Affiliates) has taken all necessary steps to preserve and protect, in all material respects, all material Owned IP delivered, deliverable or otherwise provided directly or indirectly to the Acquired Companies (or, to the extent related to the Business, Seller or any of its other Controlled Affiliates) by any Governmental Authority in connection with any Government Contract.

4.20 Brokers. Other than with respect to fees or commissions that will be payable to any Broker (other than the Acquired Companies), neither Seller nor any Acquired Company has any liability or obligation for any brokerage fees, commissions, finders', financial advisor fees or other fees in connection with this Agreement or the Transactions.

4.21 Related Party Transactions. Except as set forth on Schedule 4.21 of the Agreement, neither Seller nor any Acquired Company has any liability or obligation in connection with Contracts, Benefits Plans or policies for, or otherwise in

connection with, employment and benefits provided to employees and other in the course of business consistent with past practice, no officer, director, manager or Affiliate (including the Acquired Companies): (a) has entered into any financial transaction with any Acquired Company; (b) has any right, title, or interest in or to, or uses, holds or controls any assets or properties used in the Business, whether tangible or intangible (including the Seller Transitional Trademarks); or (c) provides or causes to be provided to or for the Business any properties, services or facilities used in the Business (other than those that will come under the Services Agreement), in each case of (a), (b) and (c) that is material to the Business.

4.22 Intercompany Arrangements. Other than Contracts to provide the Business with the Transition Services Agreement, Schedule 4.22 of the Sell Side Letter (updated by Seller within thirty (30) days from the date of this Agreement, but only as of the date of this Agreement) sets forth a true and complete list, as of the date hereof, of all Contracts between the Acquired Companies, on the one hand, Seller or any of its Controlled Affiliates (other than the Acquired Companies) on the other hand and (b) all Contracts relating to (i) any guaranty by any Acquired Company or its Controlled Affiliates (other than the Acquired Companies) and (ii) any guarantee by Seller or any of its Controlled Affiliates (other than the Acquired Companies) of any obligation of an Acquired Company, in each case of (a) and (b) that is material to the Business.

4.23 Disclaimer of Seller. EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES OF SELLER IN THIS ARTICLE IV (AND, AS OF THE CLOSING, THE CERTIFICATE OF OPINION PURSUANT TO SECTION 10.1(c)) WITH RESPECT TO REPRESENTATIONS AND WARRANTIES (INCLUDING THE ACQUIRED COMPANIES), OR ANY OF THEIR RESPECTIVE REPRESENTATIVES, NO PERSON MAKES, HAS MADE, SHALL BE DEEMED TO HAVE MADE, OR HAS AGREED TO MAKE, ANY EXPRESS OR IMPLIED REPRESENTATION OR WARRANTY, AT LAW OR IN EQUITY, OR UNDER ANY STATUTORY OR OTHERWISE, ON BEHALF OF OR WITH RESPECT TO SELLER, ITS AFFILIATES (INCLUDING THE ACQUIRED COMPANIES), OR ANY OF THEIR RESPECTIVE REPRESENTATIVES, OR ANY OF THEIR RESPECTIVE BUSINESSES (INCLUDING THE BUSINESS), OPERATIONS, ASSETS, LIABILITIES, FINANCIAL RESULTS, ESTIMATES, PROJECTIONS, FORECASTS, PLANS OR PROSPECTS, THIS AGREEMENT, THE ACCURACY OR COMPLETENESS OF ANY INFORMATION REGARDING THE BUSINESS (INCLUDING THE ACQUIRED COMPANIES), FURNISHED OR MADE AVAILABLE TO THE PURCHASER, ITS AFFILIATES OR ITS OR THEIR RESPECTIVE REPRESENTATIVES (INCLUDING ANY INFORMATION, DOCUMENTS OR MATERIALS MADE AVAILABLE TO THE PURCHASER, ITS AFFILIATES OR ITS OR THEIR RESPECTIVE REPRESENTATIVES OR ANY OTHER INFORMATION, DOCUMENTS OR MATERIALS OTHERWISE, IN A CONFIDENTIAL INFORMATION).

MEMORANDUM OR ANY MANAGEMENT PRESENTATIONS OR IN ANY OTHER MANNER, AND SELLER HEREBY DISCLAIMS ANY AND ALL SUCH REPRESENTATIONS OR WARRANTIES NOT EXPRESSLY SET FORTH IN THIS ARTICLE IV (AND, AS OF THE CLOSING, THE CERTIFICATE OF OPINION PURSUANT TO SECTION 10.1(c)) WITH RESPECT TO REPRESENTATIONS AND WARRANTIES. WITHOUT LIMITING THE REMEDY EXPRESSLY SET FORTH IN THIS ARTICLE IV (AND, AS OF THE CLOSING, THE CERTIFICATE OF OPINION PURSUANT TO SECTION 10.1(c)) WITH RESPECT TO REPRESENTATIONS AND WARRANTIES, SELLER SPECIFICALLY DISCLAIMS ANY STATEMENT, REPRESENTATION OR WARRANTY REGARDING THE SUITABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE WITH RESPECT TO THE BUSINESS, THE WORKMANSHIP THEREOF, AND THE ABSENCE OF

LATENT OR PATENT, IT BEING UNDERSTOOD THAT SUCH ASSETS ARE BEI THE CLOSING DATE, AND IN THEIR PRESENT CONDITION. THIS SECTION 4 REMEDY OF PURCHASER WITH RESPECT TO ANY CLAIM FOR FRAUD, UND IN CONNECTION WITH ANY REPRESENTATION OR WARRANTY SET FO AGREEMENT DELIVERED AT THE CLOSING.

4.24 No Other Representations.

(a) IN ENTERING INTO THIS AGREEMENT, SELLER HAS INDEPENDENT REVIEW AND ANALYSIS AND THE REPRESENTATIONS , EXPRESSLY SET FORTH IN ARTICLE V (AND, AS OF THE CLOSING, TH PURSUANT TO SECTION 10.2(c)) WITH RESPECT TO REPRESENTATIONS AN

(b) SELLER UNDERSTANDS, ACKNOWLEDGES AND AGREES WARRANTIES OF PURCHASER EXPRESSLY SET FORTH IN ARTICLE V CERTIFICATE TO BE DELIVERED PURSUANT TO SECTION 10.2(c) WITH RI WARRANTIES) CONSTITUTE THE SOLE AND EXCLUSIVE REPRESENTATION: PURCHASER, ITS AFFILIATES AND ANY OF THEIR RESPECTIVE REPRESENT SELLER, ITS AFFILIATES AND ITS AND THEIR RESPECTIVE REPRESENTATI AND ITS AFFILIATES, THIS AGREEMENT, THE TRANSACTIONS, OR THE ACC INFORMATION REGARDING PURCHASER OR ITS AFFILIATES, OR ANY OTHE

AVAILABLE TO (OR OTHERWISE ACQUIRED BY) SELLER, ITS AFFILIATE REPRESENTATIVES OR ANY OTHER PERSON (INCLUDING ANY INFORM MADE AVAILABLE TO SELLER, ITS AFFILIATES OR ITS OR THEIR RESPECTIV PERSON), INCLUDING WITH RESPECT TO ANY ERRORS THEREIN OR OMI IN EXPECTATION OR FURTHERANCE OF THE TRANSACTIONS, AND SEI ACKNOWLEDGES AND AGREES THAT (I) EXCEPT FOR THE REPRES PURCHASER EXPRESSLY SET FORTH IN ARTICLE V (AND, AS OF THE DELIVERED PURSUANT TO SECTION 10.2(c)) WITH RESPECT TO REPRES SUCH OTHER REPRESENTATIONS AND WARRANTIES OF ANY KIND OR NAT OR IN EQUITY, WHETHER WRITTEN OR ORAL, STATUTORY OR OTHERWISE, DISCLAIMED BY PURCHASER, ITS AFFILIATES AND THEIR RESPECTIVE R PURCHASER, ITS AFFILIATES OR ANY OF THEIR RESPECTIVE REPRES SHALL HAVE ANY LIABILITY FOR ANY AND ALL SUCH OTHER EXPRESS WARRANTIES NOT EXPRESSLY SET FORTH IN ARTICLE V (AND, AS OF THI DELIVERED PURSUANT TO SECTION 10.2(c)) WITH RESPECT TO REPRES SECTION 4.24 SHALL NOT LIMIT ANY RIGHT OR REMEDY OF SELLER WITH OR ANY REPRESENTATION OR WARRANTY SET FORTH IN ANY OTHER TR/ AT THE CLOSING.

ARTICLE V

REPRESENTATIONS AND WARRANTIES OF PUF

Purchaser hereby represents and warrants to Seller as follows:

5.1 Authority; Enforceability.

(a) Purchaser has the requisite organizational power and authori and each other Transaction Agreement to which it is a party, to perform its oblig Transaction Agreement to which it is a party and to consummate the Transactio Agreement and each other Transaction Agreement to which it is a party. The Purchaser of this Agreement and each other Transaction Agreement to which it

(b) This Agreement has been duly and validly executed and delivered by Seller, assuming due authorization, execution and delivery of this Agreement by Seller, enforceable against Purchaser in accordance with the terms hereof. As of the date of delivery of each

5.2 Non-Contravention; Consents.

(b) Assuming the Consents, Permits, registrations, declarations Section 5.2(a) are obtained or made, the execution and delivery by Purchaser of the Agreement to which Purchaser is a party does not, and the consummation of the violate any provision of the organizational documents of Purchaser or (ii) result in (with or without notice or lapse of time, or both), result in the creation or acceleration obligations under, or create in any party the right to accelerate, terminate, modify Purchaser or its Affiliates are party, except, in the case of the foregoing clause (ii), have, individually or in the aggregate, a Purchaser Material Adverse Effect.

5.4 Litigation. There is no Proceeding pending before any Governmental Authority or court, and Purchaser has no knowledge of any such Proceeding threatened in writing, against Purchaser which questions the validity of any Transaction Agreements to which it is a party, and Purchaser is not subject to any legal action, claim or demand, in each case, that would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(b) pay any other amounts required to be paid by Purchaser in connection with the borrowing notice;

5.6 Solvency. As of the Closing, immediately after giving effect to all of the Debt Financing, and assuming satisfaction of the conditions to Purchaser's offer set forth in Article X, Purchaser and its Subsidiaries (including, after the Closing, the Subsidiaries of Purchaser), on a balance sheet test, basis, will not (a) be insolvent (either because its financial condition is such that the estimate of the amount of all contingent liabilities) is greater than the fair value (or the liquidation value or the saleable value of its assets will be less than the amount required to pay its probable liabilities as they become absolute and matured), (b) have unreasonably small capital with which to engage in business, or (c) to incur debts beyond its ability to pay as they become absolute and matured.

5.7 Brokers. Other than with respect to fees or commissions that will be payable to the Broker, Purchaser and its Affiliates have not retained any broker or finder or intermediary in connection with the Transactions, and no brokerage fees, commissions, finders', financial advisor or other similar fees shall be payable by Purchaser in connection with the Transactions.

5.8 Pending Transactions. As of the date of this Agreement, neither Purchaser nor any of its Affiliates shall enter into any pending transaction to acquire (a) by merging or consolidating with, by purchasing or otherwise acquiring, any other entity, or (b) any other similar transaction, including a license or co-development or production right, in which the consummation of the transaction would reasonably be expected to (i) impose any material delay in the obtaining of, or (ii) increase, in any material respect, the risk of not obtaining, any Consents, Orders or Governmental Approvals necessary for the consummation of the Transactions, or (iii) otherwise prevent or materially delay the consummation of the Transactions, or (iv) increase, in any material respect, the risk of any Governmental Authority entering into an order or taking any action that would prevent or materially delay the consummation of the Transactions or (v) otherwise prevent or materially delay the consummation of the Transactions.

5.9 NTIB Entity. Purchaser represents that it is a National Technology Information Base (NTIB) Entity as defined in 32 C.F.R. Part 117.3(b).

5.10 ITAR. Purchaser represents that it is registered and in good standing under the International Traffic in Arms Regulations (ITAR) as a manufacturer.

5.11 Inspection; No Other Representations.

(a) Purchaser is an informed and sophisticated purchaser and has conducted its own independent review and analysis of the financial and business matters that it is capable of evaluating the merits and risks of the Transactions and the business of the Companies. PURCHASER HAS CONDUCTED TO ITS OWN SATISFACTION AN INDEPENDENT REVIEW AND ANALYSIS OF THE

ACQUIRED COMPANIES, THE BUSINESS AND THE ASSETS, AND THE CONDITION OF THE ACQUIRED COMPANIES AND THE BUSINESS, AND ACKNOWLEDGES THAT PURCHASER HAS BEEN PROVIDED ACCESS TO THE PROPERTIES, PREMISES AND RECORDS OF THE ACQUIRED COMPANIES FOR THIS PURPOSE. IN ENTERING INTO THIS AGREEMENT, PURCHASER HAS CONDUCTED TO ITS OWN SATISFACTION AN INDEPENDENT REVIEW AND ANALYSIS AND THE REPRESENTATIONS AND WARRANTIES OF SELLER EXPRESSLY SET FORTH IN ARTICLE IV (AND, AS OF THE CLOSING, THE REPRESENTATIONS AND WARRANTIES OF SELLER EXPRESSLY SET FORTH IN SECTION 10.1(c)) WITH RESPECT TO REPRESENTATIONS AND

(b) PURCHASER UNDERSTANDS, ACKNOWLEDGES AND AGREES THAT THE REPRESENTATIONS AND WARRANTIES OF SELLER EXPRESSLY SET FORTH IN ARTICLE IV (AND, AS OF THE CLOSING, THE REPRESENTATIONS AND WARRANTIES OF SELLER EXPRESSLY SET FORTH IN SECTION 10.1(c)) WITH RESPECT TO REPRESENTATIONS AND WARRANTIES), CONSTITUTE THE SOLE AND EXCLUSIVE REPRESENTATION AND WARRANTIES OF SELLER, ITS AFFILIATES (INCLUDING THE ACQUIRED COMPANIES), AND ANY OTHER PERSON TO PURCHASER, ITS AFFILIATES AND ANY OTHER PERSON WITH RESPECT TO SELLER, ITS AFFILIATES (INCLUDING THE ACQUIRED COMPANIES), THEIR BUSINESSES (INCLUDING THE BUSINESS), OPERATIONS, ASSETS, RESULTS OF OPERATIONS, FUTURE OPERATING OR FINANCIAL RESULTS, AND THE BUSINESS OF THE ACQUIRED COMPANIES.

KIND OR NATURE, EXPRESS OR IMPLIED, AT LAW OR IN EQUITY, WHETHER OTHERWISE, ARE SPECIFICALLY AND EXPRESSLY DISCLAIMED BY SELLER (AND ITS ACQUIRED COMPANIES) AND THEIR RESPECTIVE REPRESENTATIVES AND AGENTS (INCLUDING THE ACQUIRED COMPANIES), OR ANY OF THEIR RESPECTIVE AGENTS. NO PERSON SHALL HAVE ANY LIABILITY FOR ANY AND ALL SUCH OTHER EXPRESS OR IMPLIED WARRANTIES NOT EXPRESSLY SET FORTH IN ARTICLE IV (AND, AS OF THE DATE OF BEING DELIVERED PURSUANT TO SECTION 10.1(c)) WITH RESPECT TO REPRESENTATIVES. SECTION 5.11 SHALL NOT LIMIT ANY RIGHT OR REMEDY OF PURCHASER AVAILABLE IN FRAUD, UNDER THE R&W INSURANCE POLICY OR WITH RESPECT TO ANY OTHER SET FORTH IN ANY OTHER TRANSACTION AGREEMENT DELIVERED AT THE SAME TIME AS THIS

5.12 Disclaimer of Purchaser. EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES MADE BY PURCHASER IN THIS ARTICLE V (AND, AS OF THE CLOSING, THE CERTIFICATE TO SECTION 10.2(c)) WITH RESPECT TO REPRESENTATIONS AND WARRANTIES OF PURCHASER, AFFILIATES OR ANY OF THEIR RESPECTIVE REPRESENTATIVES OR ANY OTHER PERSON, PURCHASER SHALL BE DEEMED TO HAVE MADE, OR HAS BEEN AUTHORIZED TO MAKE, ANY AND ALL SUCH REPRESENTATION OR WARRANTY, AT LAW OR IN EQUITY, WHETHER VERBALLY OR OTHERWISE, ON BEHALF OF OR WITH RESPECT TO PURCHASER, PURCHASER'S AFFILIATES OR RESPECTIVE REPRESENTATIVES OR ANY OTHER PERSON, THIS AGREEMENT SHALL NOT BE LIMITED BY THE ACCURACY OR COMPLETENESS OF ANY INFORMATION REGARDING PURCHASER OR ANY OTHER MATTER, FURNISHED OR MADE AVAILABLE TO (OR OTHERWISE ACQUIRED BY) PURCHASER OR ITS OR THEIR RESPECTIVE REPRESENTATIVES OR ANY OTHER PERSON. PURCHASER'S ERRORS THEREIN OR OMISSIONS THEREFROM, IN EACH CASE, IN EXERCISE OF ITS DISCRETION IN SUCH TRANSACTIONS, AND PURCHASER HEREBY DISCLAIMS AND SHALL HAVE NO LIABILITY FOR SUCH REPRESENTATIONS OR WARRANTIES NOT EXPRESSLY SET FORTH IN THIS AGREEMENT. AT CLOSING, THE CERTIFICATE TO BE DELIVERED PURSUANT TO SECTION 10.2(c) SHALL NOT BE LIMITED BY SUCH REPRESENTATIONS AND WARRANTIES). THIS SECTION 5.12 SHALL NOT BE LIMITED BY ANY SELLER WITH RESPECT TO ANY CLAIM FOR FRAUD OR ANY REPRESENTATION OR WARRANTY IN ANY OTHER TRANSACTION AGREEMENT DELIVERED AT THE CLOSING.

COVENANTS OF THE PARTIES

6.1 Conduct of the Business Prior to the Closing.

(a) Except (i) as expressly contemplated by this Agreement or the Legal Requirement or Contract, (iii) for matters set forth on Schedule, (iv) reasonably in response to any (A) Contagion Event, (B) Pandemic Event, or (v) with the written consent of Purchaser (which consent shall not be unreasonably withheld or delayed), Seller and its Controlled Affiliates shall, from the date of this Agreement until the earlier of the Closing and the termination of this Agreement, shall cause the Acquired Companies to, and, to the extent relating to the Business, Affiliates to, (1) use commercially reasonable efforts to operate the Business in the same manner as Seller and its Controlled Affiliates have operated the Business with past practice (provided, that (x) no action or inaction by Seller or any of its Controlled Affiliates (Company) with respect to any matters specifically addressed by any portion of Section 6.1(a) shall be deemed a breach of this clause (1) unless such action or inaction is a breach of a portion of clause (2); (y) Purchaser's written consent with respect to any specific action or inaction shall be deemed to constitute consent with respect to such action or matter for all purposes under this Section 6.1(a) shall be deemed to apply to any action taken or not taken by Seller and its Controlled Affiliates (other than the Acquired Companies) to the extent such action or inaction (A) relates to the services provided by Seller or any such Controlled Affiliate (and to be retained in connection with the Transactions), (B) applies to all businesses of Seller and its Controlled Affiliates, and (C) not reasonably be expected to result in a material detriment to the Acquired Companies), of the following:

- (1) amend the organizational documents of any Acquired Company;
- (2) except for (A) intercompany borrowings that will be repaid or canceled at or prior to the Closing, (B) ordinary course borrowings under the terms of the debt instruments incurred to finance capital expenditures permitted under clause (xiii) below, (C) borrowings to the extent of indebtedness for borrowed money outstanding at any time, (2) enter into or incur any new borrowing of money or (3) assume, guarantee or endorse the obligation of any other Person, the obligations would be obligations of the Acquired Companies following the Closing;
- (3) permit any of the material assets of the Acquired Companies to be sold, transferred, or otherwise subjected to any Encumbrance other than (A) Permitted Encumbrances or (B) any other course of business consistent with past practice;
- (4) with respect to any Acquired Company, fail to maintain in effect any plan of complete or partial liquidation, dissolution, restructuring, recapitalization, or consolidation with any other Person, or, with respect to any Acquired Company, fail to maintain any joint venture or similar venture with any other Person (not including joint development agreements with suppliers in the ordinary course of business);

(5) purchase any securities or make any investment or capital expenditure, or purchase of stock or securities, contributions to capital, asset transfers or other acquisitions, or acquire direct or indirect control over, any Person, business, or other entity, in which the aggregate consideration paid (A) in any individual transaction is in excess of \$35,000,000;

(6) loan or advance any amount other than (A) to another Person, or (B) advances to employees of any Acquired Company for travel and business expenses;

(7) except with respect to customary rights granted to lenders under the Seller Debt Facilities that will be released at the Closing, redeem or otherwise reacquire or other voting or equity interests in any Acquired Company, or issue, deliver, or otherwise acquire capital stock of or other voting or equity interests in any Acquired Company, or enter into any agreements, "phantom" stock right, stock appreciation right, stock-based per

exchangeable securities or rights or any other commitment or undertaking that the Company is or may become obligated to issue, deliver, sell, transfer or grant voting or equity interests in any Acquired Company or (y) any security exchangeable for, any shares of capital stock of or other voting or equity interests in any Acquired Company is, or may become obligated to, issue, deliver, sell, transfer or grant such warrant, option, right, unit, security, commitment or undertaking described in the Schedule of Warrants, Options, Rights, Units, Securities, Commitments or Undertakings, which gives any Person the right to receive any benefit or right similar to any right described in the Schedule of Warrants, Options, Rights, Units, Securities, Commitments or Undertakings, or any shares of capital stock of or other voting or equity interests in any Acquired Company;

(8) split, combine or reclassify any shares of capital stock of or other voting or equity interests in any Acquired Company (including the Shares), or issue any other security in respect of or in exchange for, any shares of capital stock of or other voting or equity interests in any Acquired Company;

(9) except in the ordinary course of business consistent with the best interests of the Acquired Companies, sublease or otherwise dispose of any properties or assets of the Acquired Companies having an aggregate value in excess of \$25,000,000;

(10) declare or set aside any dividends or distributions on the Shares or on any voting or equity interests in any Acquired Company (in cash or in kind) to the extent that (A) are payable at or after the Closing or (B) payable in anything other than cash;

(11) compromise, settle, agree to settle or grant any release or other consideration in connection with any Proceeding (A) where the amount involved is in excess of \$15,000,000 or (B) involving injunctive or other nonmonetary relief or admission of liability;

\$15,000,000 or (B) involving injunctive or other nonmonetary relief or admission of liability;

(12) sell, assign, transfer, exclusively lease, abandon, exclude, license, sublicense, license, terminate or expire, grant an Encumbrance with respect to, or otherwise dispose of, any Property, except (A) Permitted Encumbrances, (B) expirations of contractual obligations of Company Registered IP upon the expiration of its term in connection with the termination of non-exclusive licenses of Owned IP granted by an Acquired Company with respect to the Property, or (C) the expiration of the term of any license of the Property;

(13) make any capital expenditure in excess of \$5,000,000 in any fiscal year, except as set forth in the aggregate, other than as set forth in the capital budgets of the Business made available to the Purchaser hereof;

(14) make any material change to any accounting method or policy of the Acquired Companies, except as may be appropriate to conform to changes in generally accepted accounting requirements or GAAP;

(15) except (A) as may be required by the terms as of the date of the Closing of the obligations for which Seller and its Controlled Affiliates (other than the Seller) are obligated to pay and as would not result in any liability to Purchaser or any other Person, or (B) action taken in reliance of this clause (B), a "Permitted Compensation Action" is any action taken in reliance of this clause (B) to make any payment or vesting of the compensation or benefits of any Company Employee or other individual service provider of the Acquired Companies, including any increase for Company Employees and individual service providers of the Acquired Companies in base salary or other base compensation of less than \$280,000, (2) enter into or amend any Acquired Company Benefit Plan (or any other benefit or compensation plan or arrangement that would be an Acquired Company Benefit Plan if in effect) or any other benefit or compensation plan or arrangement that would be an Acquired Company Benefit Plan if in effect as a Company Employee or other individual service provider of the Acquired Companies, or (3) the hiring of Company Employees or other individual service providers (x) whose base compensation of less than \$280,000 or (y) to replace any Company Employee or other individual service provider who resigns or whose employment or contract is terminated, or to hire or replace any Company Employee or other individual service provider of the Acquired Companies (provided that, if such hiring is in reliance of this clause (y), for any of the actions described in 6.1(a)(xv) of the Seller Disclosure Schedule, Seller or its applicable Controlled Affiliates).

Purchaser prior to hiring any Company Employees or other individual sei salary or other compensation of more than \$280,000 if such Person is the P Company or a direct report of the President) on the same or substantially sir or contract as similarly situated individuals of Seller and its Controlled Affili including base compensation and bonus opportunity, if applicable, (4) te cause, of any Company Employee

with a gross annual base salary equal to or in excess of \$280,000, (5) tr Employee outside of the Acquired Companies other than where such Ct selected in a competitive process not targeted at Company Employees f Controlled Affiliates that is outside of the Acquired Companies; provided tha with a gross annual base salary equal to or in excess of \$280,000 be transf without the written consent of Purchaser or (6) grant or announce any cash c bonus, retention bonus, transaction bonus, severance, in any such case t extraordinary compensation payable to any Company Employee, Former former individual service provider of the Acquired Companies or the Bu clause (6) shall not limit any Permitted Compensation Action);

(16) (A) modify, extend, terminate or enter into any Col Company Employees or (B) recognize or certify any labor union, labor employees as the bargaining representative for any Company Employees;

(17) with respect to Company Employees, implement or an reductions in force, plant closings, or other similar actions, in each case, WARN Act in the event of a plant closing or mass layoff;

(18) transfer or reassign the duties of (A) a Company Empl Company Employee but is an employee of Seller or its Controlled Affiliates Controlled Affiliates such that he or she would become a Company Employ that are taken in order to fill a vacancy in the ordinary course of business course termination of employment) or due to death or disability, with s substantially similar terms and conditions of employment or Contract as including base compensation and bonus opportunity, if applicable;

(19) except as would not reasonably be expected to affect th (A) make, change or revoke any material Tax election, (B) enter into any "clk 7121 of the Code (or any corresponding agreement under state, local or compromise or abandon any dispute, audit, claim or proceeding concerni material Tax Return in a manner inconsistent with past practices or file surrender any right to claim any material Tax refund, (F) waive or extend material Tax or material Tax Return or (G) incur any material Tax liability , except, in each case, to the extent such actions are taken solely with res reportable thereon;

(20) conduct its cash management practices materially out consistent with past practice;

(21) (A) other than in the ordinary course of business (includ to a specific program, in each case that is expressly contemplated by th available to Purchaser), enter into, materially modify, materially amend, terr any Material Contract, (B) other than Contracts that are for programs or prc "Pending Bid Contract"), enter into any Contract that contains a change c

require a payment to (or consent of) the other party or parties thereto in connection with the Transactions is obtained from the applicable party or parties, and such waiver or consent does not involve the payment of a fee or other consideration (a "Material Contract Waiver")) (with respect to this clause (x) writing to Seller's request for consent within three (3) Business Days, Seller and its Affiliates are prohibited by applicable Legal Requirements from (A) entering into any new customer Contract with respect to the Contract; or (B) entering into, modify, amend or waive any material rights under the Contract that would have been required to be entered into prior to the date of this Agreement; or

(22) enter into, modify, amend or waive any material rights under the Contract that would have been required to be entered into prior to the date of this Agreement; or

(23) enter into any legally binding commitment with respect to the Contract;

(b) Notwithstanding anything to the contrary contained in Section 6.1, Seller shall not prevent Seller or its Affiliates from taking or failing to take any action (i) that is such that Seller or any of its Affiliates in effect as of the date of this Agreement in connection with the Business, the health and safety of the personnel or employees of Seller or its Affiliates come into contact with in the ordinary course of business, (B) to the extent reasonably necessary to comply with Pandemic Measures or (D) to the extent reasonably necessary to comply with Cybersecurity Measures or (D) to the extent reasonably necessary to comply with any event be deemed to constitute a breach of Section 6.1(a); provided, that, Seller shall make efforts to inform Purchaser of any such actions as promptly as reasonably practical of the Business or the Acquired Companies and, to the extent reasonably practical, to consult with and cooperate with Purchaser in good faith with respect to any such actions.

(c) Subject to the other limitations of this Section 6.1, the bank accounts of the Company shall continue to be subject to Seller's and its Affiliates' periodic cash sweep in their sole discretion. Prior to the Closing, Seller and its Affiliates may pay cash dividends and make cash distributions. Prior to the Closing, Seller and its Affiliates may take all actions necessary to ensure the Company Subsidiary has at least \$10,000,000 (after giving effect to the payment of any Indebtedness and Transaction Expenses) of freely usable cash (the "Minimum Closing Cash") in one or more bank account(s) of the Company Subsidiary located in the United States.

(d) Nothing contained in this Agreement is intended to or shall give or indirectly, the right to control or direct the operations of Seller, the Business or the Acquired Company. Prior to the Closing, Seller shall exercise, consistent with the terms and conditions of the Agreement, control and supervision over its operations and the operations of the Business and the Acquired Company.

(e) Notwithstanding anything to the contrary contained in this Agreement, Seller and its Affiliates shall not, and Seller and its Affiliates have the absolute right to, terminate or otherwise eliminate any intercompany accounts or liabilities, or any distributions, forgiveness, offset or any combination of the foregoing, in each case that would affect Purchaser or any of its Affiliates (including, following the Closing, the Acquired Company).

(f) Notwithstanding anything to the contrary contained in this Agreement, Seller and its Affiliates shall not, and Seller and its Affiliates have the affirmative right to, (i) terminate any factoring program applicable to the Business or the Acquired Company, (ii) terminate any factoring program applicable to the Business or the Acquired Company, (iii) cancel or otherwise eliminate any intercompany accounts or liabilities, (iv) make any distributions, forgiveness, offset or any combination of the foregoing, in each case that would affect Purchaser or any of its Affiliates (including, following the Closing, the Acquired Company).

6.2 Pre-Closing Access to Information.

(a) Until the earlier of the Closing and the termination of this Agreement and shall cause the Acquired Companies (and to the extent related to the Business) to provide reasonable access, subject to applicable Legal Requirements, to the Purchaser to have reasonable access, subject to applicable Legal Requirements, to the normal business hours in a manner so as not to interfere with the normal business operations of the Acquired Companies, in accordance with the procedures established by Seller, to the books, assets, and records of the Acquired Companies and solely for the purposes of facilitating the consummation of the Transactions; however, that nothing in this Agreement shall (i) require Seller or its Affiliates to provide access or disclosure where Seller reasonably believes in good faith that such access or disclosure would be inconsistent with applicable laws (including Data Protection Laws), Pandemic Measure, Cybersecurity Measure or the waiver of any legal privilege or work-product protection, would expose Seller to the risk of sensitive, confidential or personal information or would cause significant competitive harm to the Acquired Companies or their respective businesses if the Transactions are not consummated, (ii) include any information regarding the Acquired Companies' ownership of the Owned Real Property or the Leased Real Property.

Property for or regarding any environmental matters, (iii) require Seller or any Affiliates, its and their Representatives or other representatives with (A) any Confidential information to the extent relating to businesses of Seller or any of its Affiliates other than to provide (A) information with respect to bids, the identity of any bidder, confidentiality of intent, expressions of interest or other proposals received in connection with transactions, or any information or analysis relating to any such communications or (B) financial information that has been prepared by Seller or its Affiliates, or that is not otherwise prepared in the ordinary course, provided, however, that, if reasonably requested by Purchaser, Seller will notify Purchaser of the circumstances giving rise to any non-disclosure pursuant to the foregoing and, in the event of such disclosure, Seller shall use commercially reasonable efforts to identify and pursue a permissible method of disclosure of such information in a manner that would not result in any of the outcomes described in the information pursuant to this Section 6.2(a) shall not expand the remedies available under the Agreement in any manner. Any information disclosed will be subject to the provisions of the Agreement.

(b) Until the earlier of the Closing and the termination of this Agreement, Purchaser shall not, and shall cause its Affiliates and its and their respective Representatives, officers, directors, employees, landlords or customers of, or vendors or suppliers of, or other Companies, to the extent such communications are related to the Business (i) in connection with this Agreement or the Transactions, without the prior written consent of Seller, Section 6.2 shall prohibit Purchaser, its Affiliates and its and their respective Representatives, such Persons in the ordinary course of their respective business unrelated to the Transaction, in connection with ongoing commercial relationships or (ii) Company Employees at the discretion of Seller, mutually agreed by the parties in advance in connection with post-Closing matters, including employment.

(c) Until the earlier of the Closing and the termination of this reasonably requested by Seller, Purchaser will use commercially reasonable effort agreement or common interest agreement with Seller or any of its Affiliates with Purchaser or its Affiliates, or to which Purchaser or its Affiliates gain access, pursuant

6.3 **Cooperation.** Subject in all cases to the other terms and conditions of Section 6.4 and Section 6.8, prior to the Closing, Seller shall, and shall cause its Affiliates to, use reasonable best efforts to cause all Closely Held Entities to, use reasonable best efforts to cause all Closely Held Entities to, reasonably practicable and, in any event, on or prior to the Outside Date.

6.4 Shared Contracts and Consents.

(a) With respect to any Shared Contracts, if any, from the date _____ months following the Closing Date, Seller and Purchaser shall cooperate

(b) If the Closing occurs before all Shared Contracts are assigned or novated pursuant to Section 6.4(a), Seller and Purchaser shall use commercially reasonable efforts to enter into a novation agreement with each other in any mutually agreeable and lawful arrangement under which Seller provides to Purchaser or its designated Affiliate the economic claims, rights and benefits of the Shared Contract until the earliest of (i) the expiration of the then-current term, (ii) twelve (12) months after the expiration of the then-current term, (iii) the termination of or amendment to such Shared Contract upon mutual agreement, or (iv) the termination of the novation agreement. Termination fees or similar fees incurred by Seller or any of its Controlled Affiliates in connection with the termination or amendment of such Shared Contract pursuant to this clause (iii) shall be borne by Seller. Seller shall not be required to include subcontracting, sublicensing or subleasing to Purchaser or its designated Affiliate in the novation agreement. The novation agreement shall be applicable to the applicable Controlled Affiliate under the Business Portion of such Shared Contract.

(c) Subject in all cases to the other terms and conditions set forth in the third-party Consents, Seller shall, and shall cause the Acquired Companies to, use commercially reasonable efforts to obtain the third-party Consents of, and make any registrations, declarations, filings and notifications to, the third parties (as defined in Section 6.8) that may be required or appropriate in connection with the Transactions (including, without limitation, any required to avoid an obligation to pay or incur any financial penalty or fee or refund or reimbursement of any amount in connection with the result of, the Transactions). For the avoidance of doubt, except with the written consent of the third parties (which consent may be withheld, conditioned or delayed), Seller or its Affiliate shall be the sole party to the Transactions, and shall not be a counterparty to third-party Consents (other than to the extent subject to Section 6.8 of the Transaction Agreements or the Transactions; provided that, Seller and its Affiliates shall use commercially reasonable best efforts to consult in good faith with Purchaser and to keep Purchaser informed of the status of the Transactions regarding the obtaining of any third-party Consents.

Notwithstanding anything in this Section 6.4(c) to the contrary, (i) none of Seller or money to any Person or to offer or grant other financial or other accommodations to any such Consent and (ii) the failure, in and of itself, to obtain any Consent shall not constitute any breach of this Section 6.4(c).

(d) Notwithstanding anything to the contrary contained in this Agreement, Seller and its Affiliates shall (i) be required to expend any money, commence or participate in a transaction, or grant any accommodation (financial or otherwise) to any third party to obtain any Consent, and (ii) have any obligation pursuant to this Section 6.4 with respect to any Contract that is subject to the Agreement. No representation, warranty or covenant of Seller contained in this Agreement shall be breached or deemed breached, and no condition shall be imposed on Seller's failure, in and of itself, to obtain any Consent (including any third-party consent to the transaction).

(e) From and after the Closing, (i) Purchaser shall indemnify and hold Seller and the Acquired Companies harmless from and against all Losses arising from or relating to the Business Portion of any Shared Contract, (ii) Purchaser shall not amend the terms of any Shared Contract (that has not been assigned or otherwise divided, modified, replicated or otherwise divided) in a manner that would adversely affect Seller or any of its Affiliates without the prior written consent of Seller and (iii) Seller and its Affiliates shall not extend the term or amend the terms of any Shared Contract (that has not been assigned or otherwise divided, modified, replicated or otherwise divided) in a manner that would adversely affect Purchaser or the Acquired Companies in any manner without the prior written consent of Purchaser.

(a) Except (i) for this Agreement and the other Transaction Agreement instrument expressly contemplated by this Agreement or any other Transaction Agreement of its Controlled Affiliates (other than the Acquired Companies), on the one hand, and, (ii) any Contracts to which any third party is a party (including the Contracts contemplated by Section 6.18 or (iv) the Contracts listed on Schedule 6.5(a)(iv) of the Seller Disclosure Schedule), intercompany Contract (other than commercial arrangements entered into pursuant to Schedule 6.5(a)(v) of the Seller Disclosure Schedule), arrangements, financing, intercompany loans, transactions, accounts, commitments and claims between the Company and Seller or any of its Affiliates (other than an Acquired Company), on the other hand, shall be terminated (or deemed terminated without any further action on the part of the Company or Seller).

(b) Until the earlier of the Closing and the termination of this Agreement, Seller and Purchaser shall cooperate and use commercially reasonable efforts to, cause to be terminated, or cause Purchaser or one of its Affiliates (including, as if substituted in all respects for Seller or any of its Affiliates (other than the Acquired Companies) under any guarantee of Seller or any of its Affiliates (other than the Acquired Companies) under any guarantee disclosed in Seller Disclosure Schedule (the “Intercompany Guarantees”). In the case of the failure of each of Seller and Purchaser shall continue to cooperate and use commercially reasonable efforts to, preceding sentence, and Purchaser shall (i) use commercially reasonable efforts to obtain assurances of payment on behalf of Purchaser or one of its Affiliates (including, as if substituted in all respects for Seller or any of its Affiliates (other than the Acquired Companies), with respect to any outstanding Intercompany Guarantee, (ii) indemnify and hold harmless the Acquired Companies) from and against all Losses actually suffered or incurred by the Acquired Companies relating to such Intercompany Guarantees and (iii) not permit the Acquired Companies to extend the term of or (B) increase the obligations of the Acquired Companies or third party, any Contract or letter of credit or other liability or obligation for which Seller or the Acquired Companies) is or would reasonably be likely to be liable under such guarantee; provided that if its Affiliates (other than the Acquired Companies) has performance obligations under such guarantee, Purchaser shall use its commercially reasonable efforts to (1) fully perform or cause to be performed on behalf of Seller or such Affiliate or (2) otherwise take such action as is reasonable to ensure Seller or such Affiliate in the same position as if Purchaser had performed or were to perform.

(c) Purchaser acknowledges and agrees that, without limiting Sec as presently conducted receives or benefits from general corporate functions furnished by Seller and its Affiliates (other than the Acquired Companies), including pursuant to Excluded Shared Contracts, (ii) Seller and its Affiliates shall not, terminate, amend or modify Excluded Shared Contracts (including any portion thereof) to the extent such termination, amendment or modification (A) would result in a material detriment to the Acquired Companies or (B) would not reasonably be expected to result in a material detriment to the Acquired Companies.

would not reasonably be expected to result in a material detriment to the Acquired Companies, that this clause (ii) shall not limit Seller's obligations under the Transition Service Agreements. After the Closing, the sole obligations of Seller and its Affiliates with respect to the provision of the Business shall be if, and then to the extent, set forth in the Transaction Services Agreements.

6.6 Seller Debt Facilities Releases. Seller shall use reasonable best effort to obtain, by the Closing, customary documentation evidencing the release of the Acquired Companies from all debt obligations (the "Seller Debt Facilities Releases"). The Seller Debt Facilities Releases shall provide for the release of the Acquired Companies in respect of Indebtedness, all guarantees and security provided by the Acquired Companies in any factoring programs or arrangements, all assets of the Acquired Companies subject to such debt obligations in each case under the Seller Debt Facilities shall be released or terminated, as a result of the Transactions.

6.7 Confidentiality.

(a) The terms of the Non-Disclosure Agreement shall be incorporated into this Agreement and shall continue in full force and effect (and all obligations thereunder shall be binding on the Acquired Companies (as defined in the Non-Disclosure Agreement) as set forth therein) until the Closing. The Non-Disclosure Agreement shall terminate; provided, however, that Purchaser's Confidentiality Agreement shall terminate only in respect of that portion of the Confidentiality Agreement (to the extent relating to the Acquired Companies and their Confidential Material (as defined in the Non-Disclosure Agreement) ("Non-Business Confidentiality")). The Non-Disclosure Agreement shall continue to apply to such Non-Business Confidential Material in accordance with its terms. If for any reason the Non-Disclosure Agreement shall continue in full force and effect in accordance with its terms, the Non-Disclosure Agreement shall continue in full force and effect in accordance with its terms. If for any reason there is an inconsistency between the terms expressly set forth in this Agreement (rather than the Non-Disclosure Agreement), the terms of this Agreement will govern.

(b) During the three (3) -year period following the Closing, Seller shall, using, and cause its Controlled Affiliates and its and their respective Representatives to, using, all non-public, confidential or proprietary information concerning the Acquired Companies (i) as required or requested by a Governmental Authority or required pursuant to the regulations of any securities exchange or listing authority or legal, administrative or regulatory requirements, to the extent permitted by Legal Requirements, promptly notify Purchaser of such disclosure that is expected to be made with respect thereto with reasonable promptness. Seller and its Affiliates, shall reasonably cooperate with Purchaser to seek a protective order from the court to obtain confidential treatment for such disclosure, and in the event no such protective order is obtained, Seller and its Affiliates shall furnish only that portion of such non-public, confidential or proprietary information that is required by Legal Requirements and will exercise commercially reasonable efforts to maintain the confidentiality of such information.

treatment will be accorded to such non-public, confidential or proprietary information of immediately following the Closing generally to the public, or thereafter become than as a result of a breach of this [Section 6.7\(b\)](#), (iii) to the extent such use is strictly fulfill its obligations to Purchaser and the Acquired Companies under any other Transaction disclosed to Seller or any of its Affiliates following the Closing Date on a non-confidential basis. Seller after reasonable inquiry to be bound by an obligation of confidentiality to the extent demonstrated by Seller or its Affiliates to have been independently developed for its or its Representatives' obligations under this [Section 6.7\(b\)](#) and without reference to any proprietary information concerning the Acquired Companies or the Business or any other information to a confidentiality obligation to the Acquired Companies or the Business or its or its information to Seller, its Affiliates or their respective Representatives.

6.8 Reasonable Best Efforts; Cooperation; Regulatory Filings.

(a) Each of Seller and Purchaser shall, and shall cause its respective efforts to take, or cause to be taken, all actions, and to do, or cause to be done, all things necessary, proper or advisable under applicable Antitrust Laws, CFIUS Requirements to consummate and make effective the Transactions, which actions it shall obtain as promptly as practicable each Consent, Permit and Order of any Governmental Authority necessary for the consummation of the Transactions (collectively, "[Governmental Approvals](#)"), (ii) which filings are required or advisable to obtain the Governmental Approval of, or any Governmental Authority, (iii) furnishing all information and documents required by or advisable in connection with Governmental Approvals of, or filings with, any Governmental Authority promptly as practicable following the execution and delivery of this Agreement, and any Governmental Authorities, including, as applicable, the U.S. Department of State ("[DDTC](#)"), (v) using reasonable best efforts to obtain as promptly as practicable the period or any Consent under the HSR Act and any other applicable Antitrust Laws to obtain as promptly as practicable CFIUS Clearance, (vi) using reasonable best efforts to obtain DCSA Approval and (viii) defending any actions, whether judicial or administrative, to the consummation of the Transactions, including seeking to have any Order entered by any Authority vacated or reversed. Purchaser and Seller shall coordinate with each other in all communications regarding matters related to the HSR Act and any other Governmental Authority which filings are required or advisable to obtain the Governmental Approval of, or any Governmental Authority; provided, that, without limiting Purchaser's other obligations under the HSR Act and any other applicable Antitrust Laws (including the actions Purchaser and its Affiliates are required to take), Purchaser shall be entitled to pursue its appropriate course of action. In furtherance and not in limitation of the foregoing, Purchaser shall use reasonable best efforts to file or cause to be made (A) as promptly as practicable within five Business Days following the date of this Agreement, (w) any required

notification under the ITAR with DDTC, (x) any required notification and report to the United States Federal Trade Commission (the "[FTC](#)") and the United States Department of Justice (the "[DOJ](#)") and (y) any required notification and report to the United States Department of Justice (the "[DOJ](#)") and (z) an initial notification to DCSA of the transactions pursuant to the current Operating Manual Rule, 32 C.F.R. Part 117 (the "[NISPOM Rule](#)"), and any other applicable regulations (and subsequently take such actions described in [Section 6.8\(g\)](#)) and (B) with or without notification to any other competent Governmental Authorities set forth on Schedule.

(b) In connection with, and without limiting, the efforts referenced in (a), Purchaser shall, and shall cause its respective Affiliates to, (i) furnish to the other party all reasonable assistance as the other may reasonably request in connection with its performance of its obligations under the HSR Act or any other applicable Antitrust Law, under the Trade Laws, under the CFIUS Authorities or under other applicable Legal Requirements, and (ii) designate one or more individuals who may, as each may determine is reasonably necessary, designate co-

sensitive materials and information provided to the other pursuant to this Section 6.8, such materials and information shall be given only to the outside legal counsel of such outside counsel to directors, officers or employees of the recipient unless excepted from the source of the materials (Seller or Purchaser, as the case may be) or its leg may be redacted before being provided to the other party (A) to remove references and (B) as necessary to comply with contractual arrangements; provided, further other any exhibits to communications providing the personal identifying information communications that are otherwise requested by CFIUS to remain confidential), (ii) or submission prior to forwarding to the FTC, the DOJ, CFIUS, DCSA and other such material is confidential to a party, in which case it will be provided, subject to the other party's counsel on an "external counsel only" basis) and consider in good faith that other party, (iii) keep each other apprised of the status of any communication and additional information from, any Governmental Authorities and comply as promptly as possible with any request (and in any event in accordance with applicable regulatory requirements) in any meeting or discussion, either in person or by telephone or videoconference, with a party involved in the Transactions, unless it (A) consults with the other party in advance and (B) attends and participates; provided that a party shall not be required to give the other party the opportunity to participate to the extent (1) prohibited by such Governmental Authority or (2) requested to communicate exclusively with one party). Whether or not the Transaction is the responsibility for the payment of all filing fees and disbursements to any third party except as may be required with obtaining any approvals or making the notifications or filings required pursuant to applicable law, in the absence of doubt, with respect to CFIUS Clearance and the implementation of an

hereby agrees to use reasonable best efforts to provide, or cause its applicable Company to provide, and assurances as to financial capability, resources and creditworthiness as may be required by any Governmental Authority or other third party whose Consent is sought in connection with the Transactions.

(c) Purchaser and Seller shall not, and shall cause their respective Companies to not, acquire by merging or consolidating with, or by purchasing the assets of or equity in, or otherwise acquire or agree to acquire any assets or (ii) any development or production agreement (for the avoidance of doubt, this clause (ii) shall not apply to the ordinary course of business), if, in each case, the entering into of a definitive agreement of such acquisition, merger, consolidation, transaction, license or agreement, would result in a material delay in the obtaining of, or materially increase the risk of not obtaining, any applicable waiting period under any Legal Requirement of any Governmental Authority entering an Order prohibiting or materially delaying the consummation of the Transactions.

(d) Notwithstanding anything in this Section 6.8 to the contrary, neither Party shall be deemed to require (i) Purchaser or Seller, or any of their respective Affiliates to effect or agree to any sale, divestiture, license or disposition of assets or business in any case that is not conditioned upon the consummation of the Transactions or (ii) Seller to negotiate, offer to commit, effect or agree to any sale, divestiture, license or disposition of assets or business, or behavioral remedy, of Seller or any of its Affiliates (other than of the Acquired Company) in any case that is not conditioned upon the consummation of the Transactions). Notwithstanding the contrary, none of Seller or any of its Affiliates shall under any circumstance be required to amount or incur any obligation in favor of or offer or grant any accommodation (including any provision to the contrary in the underlying Contract, including any requirements for the issuance of letters of credit or similar instruments, or the furnishing of any guarantees) to any party in connection with the actions set forth in this Section 6.8. None of Seller or any of its Affiliates shall have any obligation arising out of or relating to the failure, in and of itself, to obtain any Governmental Authority's approval required in connection with the Transactions or because of the termination, in and of itself, thereof. Purchaser acknowledges that no representation, warranty or covenant of Seller or any of its Affiliates shall be deemed breached solely as a result of (i) the failure, in and of itself, to obtain

Consent required in connection with the Transactions, (ii) any termination, in Proceeding commenced or threatened, in and of itself, by or on behalf of any Person obtain any such Governmental Approval or Consent or any such termination.

(e) Notwithstanding anything in this Agreement to the contrary, Purchaser's "reasonable best efforts" of Purchaser shall be deemed to include, and Purchaser shall take any and all actions necessary or advisable

to obtain expiration or termination of the required waiting periods and any consents or in connection with any Antitrust Laws or in connection with obtaining CFIUS Clearance or eliminate each and every impediment under any Antitrust Laws or in connection with (including all actions necessary to mitigate any national security concerns as may be requested or required by DCSA Approval), in each case, to cause the Closing and the Transactions to occur of this Agreement and, in any event, prior to the Outside Date, including (i) expediting inquiries for additional information or documentation (including any "Second Request" offering, negotiating, committing to and effecting, by consent decree, hold separate divestiture, license or other disposition or encumbrance of any and all of the businesses of Purchaser, Purchaser's Subsidiaries, the Business or the Acquired Companies assignment, amendment, modification or termination of, any Contracts or other agreements of Subsidiaries or the Acquired Companies and (C) any behavioral limitations, commitments on or with respect to the activities, businesses, services, products of Purchaser's Subsidiaries, the Acquired Companies or the Business, including terminating relationships and contractual rights and obligations, continuing certain lines of business, pricing, settling any pending or threatened Proceeding (other than the type covered by (ii) including the payment of any Losses in settlement thereof) and (iii) contesting, defending any pending Proceeding or preliminary or permanent injunction or other Order or Legal action, the ability of any party to consummate, or otherwise delay the consummation of, the Transactions, Purchaser shall not be required to take any of the actions contemplated by this Section 6.8(e) without such actions, in the event that such action contemplated by this Section 6.8(e) would have a material adverse effect on the business, operations, financial condition or results of the Business or the Acquired Companies (including the Acquired Companies) or the Business, in each case material to the Business. For purposes of the CFIUS Clearance and the DCSA Approval, Seller shall cause the Acquired Companies to reasonably support Purchaser in its discussions with the CFIUS and DCSA in the scope of any mitigation conditions to achieve the least possible impact on the Business, provided that, notwithstanding anything in this Section 6.8 to the contrary, neither Seller nor the Acquired Companies shall be required to agree to any CFIUS or DCSA condition that would have the effect of changing the structure under Purchaser's existing Special Security Agreement; provided, further that, provided that, notwithstanding anything in this Section 6.8 to the contrary, neither Seller nor the Acquired Companies shall become effectively only from and after, the Closing.

(f) Following the filing of the draft joint voluntary notice with CFIUS, Seller and the Acquired Companies shall promptly provide CFIUS with any additional or supplemental information requested in such draft joint voluntary notice, and promptly (and in any event, no later than five (5) business days) or comments from CFIUS on the draft joint voluntary notice) submit the final joint voluntary notice to CFIUS in Seller's reasonable best efforts to promptly respond (and, in any event, in accordance

with applicable Legal Requirements) to any request for additional information, documents or the filing of the joint voluntary notice. Each of the parties shall respond to any request for information within the timeframe set forth in the CFIUS Authorities; provided, that any party, after consulting with the CFIUS Authorities, may request in good faith an extension of time pursuant to the CFIUS Authorities to

(g) With respect to the DCSA Approval, as promptly as practicable in accordance with Section 6.8(a), the parties shall use reasonable best efforts to provide to DCSA the information necessary for DCSA to conduct a review of foreign ownership, consistent with the NISPOM Rule and any other applicable U.S. national industrial security regulation. Within 15 business days after the date of this Agreement, Purchaser shall submit to DCSA, and Seller shall submit to DCSA, a FOCI Mitigation Plan.

6.10 Financing Cooperation.

(1) causing management teams of the Acquired Company to provide, and to make available to the Buyer, its advisors and its experts, at reasonable times and locations mutually agreed and upon, the expertise, information and documents that the Buyer, its advisors and its experts may reasonably request, and to participate in a reasonable number of meetings, conference calls, draft and final presentations and other communications with prospective lenders and rating agencies at the Buyer's or such Persons' request);

between Seller and such third party) reasonably and customarily required Financing Sources in connection with the Debt Financing, in each case sold to the Acquired Companies; and

connection with the Debt Financing shall require Seller's prior written consent; ~~pr~~ the extent Seller provides such consent, such logos shall be used solely in a manner such purposes and that is not intended to or reasonably likely to harm or disparage any of its Controlled Affiliates or the reputation or goodwill of Seller or any of its products, services, offerings or Intellectual Property. All non-public or other confidential Affiliates or their respective Representatives pursuant to this Section 6.10 shall be subject to the terms of, the Non-Disclosure Agreement. Seller, its Affiliates shall be given a reasonable opportunity to review all presentations, bank information materials, materials for rating agencies and other documents prepared by or on behalf of Affiliates or used or distributed to any Debt Financing Source or any of its Affiliates that include any logos of or information about or provided by the Business, Representatives, and any such presentations, memoranda, materials or documents to the effect that none of Seller, its Affiliates or their respective Representatives content of such document and that Seller, its Affiliates and their respective Representatives therefor.

(c) Nothing in this Section 6.10 shall require any of Seller, its Affiliates to:

(1) waive or amend any terms of this Agreement or any Transaction or reimburse any commitment or other fee or any expenses

in connection with any Debt Financing (other than, in the case of any such Companies that only take effect upon the Closing and that terminate with no liability to Seller or their respective Representatives upon termination of this Agreement);

(2) take any action that would, or would reasonably be expected to, cause Seller or its Affiliates or their respective Representatives incurring any actual or potential any indemnity in connection with the Debt Financing (other than those of effect upon the Closing and that terminate with no liability to Seller or Representatives upon termination of this Agreement);

(3) take any action that would require Seller or any of its Affiliates to execute, deliver, enter into or perform any document, agreement, certificate or instrument in connection with the Debt Financing (other than those of the Acquired Companies that only take effect with no liability to Seller or any of its Affiliates or their respective Representatives; provide (or cause any of their Representatives to provide) any accountants' (CPAs) or other opinion of counsel;

(4) adopt resolutions or execute consents to approve or authorize

(5) take any action that would unreasonably interfere with the business operations of Seller or any of its Affiliates or their respective Representatives

(6) take any action that would cause any representation made in any Transaction Agreement to be breached or become inaccurate or that would constitute a breach of any Transaction Agreement;

(7) take any action that would conflict with or violate, or that would constitute a breach of, the organizational documents of Seller or any of its Affiliates or

(8) take any action that would result in the contravention of or result in a violation or breach of, or a default under, any Contract to which Seller or its Affiliates or their respective Representatives is a party or bound or any obligations of confidentiality of Seller or its Affiliates or their respective Representatives;

(10) cause any director, officer, employee or other Representative to incur any actual or potential personal liability; or

(d) Notwithstanding anything in this Agreement to the contrary, the obligations of Seller contemplated by this Section 6.10 will not be taken into account for purposes of determining whether the obligations of Seller contained in Section 10.1 have been satisfied or whether any of the obligations of Seller contained in Section 11.1(c).

(a) Purchaser acknowledges and agrees that (i) the coverage under policies or programs, including those relating to the Acquired Companies and the Business, shall be maintained for the benefit of Seller or any of its Affiliates (in each case other than insurance policies that are maintained and held exclusively by the Acquired Companies) (collectively, "Insurance Policies") available or transferred to Purchaser, the Acquired Companies or the Business; (ii) after the Closing, the Acquired Companies and the Business shall cease to be insured by the Insurance Policies and shall arrange for its own insurance policies or self-insurance policies or programs with the Business. Notwithstanding the foregoing, Seller shall use commercially reasonable efforts to ensure that all of its third-party Insurance Policies (excluding, for clarity, self-insurance policies) are assigned to the Acquired Companies or the Business to continue to process any claims made thereunder prior to the Closing and thereafter until the end of the term of such Insurance Policies; and (iii) the Business to the extent such claims were made prior to the Closing and reasonably expected to be made or asserted during the term of such Insurance Policies, shall remain subject to the terms and conditions of such Insurance Policies in connection therewith (in all cases if and to the extent permissible under applicable law), and any such claims shall be further subject to Section 6.11(b).

(b) Notwithstanding the foregoing in Section 6.11(a), with respect to the Acquired Companies or the Business that occurred or existed prior to the Closing, the Acquired Companies shall, with respect to third-party Insurance Policies (excluding, for clarity, self-insurance policies or policies of the Acquired Companies), as applicable, may, at Purchaser's reasonable discretion, after prior consultation with Seller, make claims and seek coverage with respect to such claims under the Occurrence-Based Policies and retain claims made prior to the Closing subject to the terms and conditions of the Occurrence-Based Policies; provided, that (i) Purchaser and the Acquired Companies shall not be required to pay for any "deductibles", retentions or premium increases associated with any such claim and shall otherwise be liable for all uninsured or unrecovered amounts of such claim and shall not be required to affect or limit the ability of Purchaser or its Affiliates (including the Acquired Insurance Policy), (ii) Purchaser and the Acquired Companies shall be liable, and shall not be required to pay, for or expenses incurred by Seller or its Affiliates through the insurers or reinsurers of the Acquired Companies to such claims, (iii) any amounts to be remitted to Purchaser or the Acquired Companies under this Section 6.11 shall be paid net of any amounts incurred by Seller or its Affiliates in connection with such claims (iv) with respect

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(c) With respect to any claims-made policies set forth on Schedule Schedule, prior to the Closing, the Acquired Companies shall, at the written request advance of the Closing Date, use commercially reasonable efforts to obtain, at F from the Closing, a “tail” extension of any existing claims-made policy (as so maintained or held by the Acquired Companies or covering any of the Acquired Cor Insurance, which is addressed in Section 7.3(c)), for a claims reporting or discover permitted by such policy) from and after the Closing, with respect to any claims rela Closing, with terms, conditions, retentions and limits of liability that are no less favo provided under each such policy existing at the Closing, and with Purchaser a insureds.

6.12 R&W Insurance Policy. If Purchaser or any of its Affiliates elects to obtain a general liability insurance policy in connection with the Transactions (the "R&W Insurance Policy"), the R&W Insurance Policy shall provide that (a)

the insurer shall irrevocably waive and not pursue, directly or indirectly, any claim Representatives (by way of subrogation, claim for contribution or otherwise) in R&W Insurance Transactions, other than in the case of Fraud and then only to the extent of such claim. R&W Insurance Representatives shall be express third-party beneficiaries of such provision. Purchaser and its Affiliates not to) amend or modify in any material respect that is adverse to Seller's interests. Seller shall not otherwise novate, assign, waive or terminate, in each case the provisions in the R&W Insurance Policy, in the preceding sentence without the prior written consent of Seller, which consent shall not be unreasonably withheld. Seller shall be solely responsible for all costs to procure, maintain and make claims under the R&W Insurance Policy, including premiums, broker fees, underwriting fees, retentions, Taxes, expenses and costs. Seller acknowledges and agrees that the absence of coverage under the R&W Insurance Policy, Seller's insolvency of, or breach of any R&W Insurance Policy by, any insurer thereunder, shall not constitute a claim that is timely and sufficient under any R&W Insurance Policy, or the R&W Insurance Policy to make any payments to Purchaser under such R&W Insurance Policy. For any reason, under such R&W Insurance Policy shall not expand, alter, amend, change or otherwise modify this Agreement.

6.13 Litigation Support.

party reasonably believes in good faith that such access or disclosure would contravene applicable Data Protection Laws) or the terms of any Contract, would result in the waiver of legal privilege, protection, or would cause significant competitive harm to such party, its Affiliates or Subsidiaries, further, that, in any such case, the applicable party will, to the extent permitted by applicable law, disclose in reasonable detail of the circumstances giving rise to any non-disclosure or non-compliance and shall use commercially reasonable efforts to identify and pursue a permissible method of obtaining such information in a manner that would not result in any of the outcomes or consequences prohibited in this Agreement shall limit any rights of discovery. Subject to Section 10.1, neither shall require any party or any their respective Affiliates to enter into any joint defense agreement with any other party.

(c) With respect to the Specified Litigation, Purchaser and its Affiliates shall, at the request of Seller (not to be unreasonably withheld, conditioned or delayed), enter into any and all reasonable and appropriate arrangements, including any and all other voluntary resolution that results in Seller having any monetary payment obligation to the Specified Litigation Parties.

6.15 Segregation of Email and Messaging Accounts. Purchaser hereby agrees that, as of the Closing Date, Seller shall be entitled to undertake a review of the email accounts of the Company Employees set forth on Schedule 6.15 of the Seller Disclosure Schedule (including attachments and contacts) and stored messages that are related exclusively to the Business (collectively, the “Excluded Emails and Messages”).

6.16 DDTC 60-Day. The parties shall, and shall cause their respective Affiliates to, use their best efforts to ensure all required filings are made with DDTC under the ITAR. The parties shall file separately the notices, required by Section 122.4(b) of the ITAR so that prior to the expiration of the time elapsed following the submission of the notice(s). The parties shall cooperate with each other to ensure

6.17 Resignations. Seller shall use reasonable best efforts to deliver to PI letters, in form and substance reasonably acceptable to Purchaser, of such member Acquired Companies and such officers of each of the Acquired Companies who Purchaser at least ten (10) Business Days prior to the Closing Date, such resignation with, and subject to the occurrence of, the Closing.

(a) Prior to the Closing, Seller shall, and shall cause its applicable of the issued and outstanding equity interests of Topaz to the Company and therea Topaz will be a wholly-owned Subsidiary of the Company Subsidiary (such transacti

(c) Prior to the Closing, Seller shall effectuate the transfers of re forth on Annex B (the "Real Estate Reorganization Plan"); provided, that, subject to but notwithstanding anything else in this Agreement to the contrary, the occurrence of 6.18(c) of the Seller Disclosure Schedule, shall not, in and of itself, constitute any further, that in the event that the Closing occurs prior to the completion of the matter Reorganization Plan, Seller shall, and shall cause its Controlled Affiliates to, use shall, and shall cause the Acquired Companies to, reasonably cooperate with Reorganization Plan with respect to such matter as promptly as practicable after Real Estate Reorganization Plan is so completed, Seller shall, and shall cause it: best efforts to provide all of the benefits of the Real Estate Reorganization Plan to no additional cost to Purchaser.

(a) It is expressly agreed that, subject to Section 7.1(b), Purchaser (and the Acquired Companies), do not have any right, title or interest (whether by operation of law or otherwise) in, to or under any Trademark consisting of, incorporating or confusingly similar to, any Trademark (including the Seller Transitional Trademarks) set forth on Schedule 7.1(a) of the Seller Disclosure Schedule, but excluding the Standalone Go Beyond Mark (which the Parties acknowledge is a Trademark owned by an Acquired Company as of the date hereof and exclusively owned by an Acquired Company as of the date hereof "Seller Mark"). Subject to Section 7.1(b), as of the Closing, Purchaser (i) shall cause and all use of the Seller Marks (including in the respective corporate or other legal documents) will not, and shall cause its Affiliates not to, (A) adopt, use, apply to register or re-apply to register, any Seller Mark (including the Seller Transitional Trademarks) or any colorable imitation thereof (including any non-English language variation thereof), (B) contest the use, ownership, validity or enforceability of any rights of Seller or its Affiliates in, to or under any Seller Mark or any colorable imitation thereof, and (iii) shall not, and shall cause its Affiliates not to, otherwise do anything inconsistent with the use of such Seller Marks or do or cause to be done any act or thing that will in any way impair the use of such Seller Marks or Seller's goodwill therein or have any dilutive effect thereon.

(b) Notwithstanding the restrictions set forth in Section 7.1(a), Seller hereby grants the Acquired Companies a limited right to utilize the Seller Transitional Trademarks solely in substantially the same manner of such use and solely for the advertising and promotional purposes immediately prior to the Closing Date, for a period of three (3) months following the Trademark End Date"; provided, that (i) any goodwill generated by the Acquired Companies in connection with the Seller Transitional Trademarks during the period following the Closing shall inure to the benefit of Seller and the Acquired Companies by or on the behalf of the Acquired Companies in connection with the Seller Transitional Trademarks prior to the Closing Date, including the use of such Seller Transitional Trademarks prior to the Closing Date, to the extent the Seller Transitional Trademarks are being used, the Acquired Companies shall promptly remedy such use of the Seller Transitional Trademarks in the same manner they were displayed prior to the Closing Date, and (ii) upon the Trademark End Date, the Acquired Companies shall promptly remedy such use of the Seller Transitional Trademarks in the same manner they were displayed prior to the Closing Date, breach of this Section 7.1(b), the Acquired Companies shall promptly remedy such use of the Seller Transitional Trademarks in the same manner they were displayed prior to the Closing Date, Trademark End Date, Purchaser shall cause the Acquired Companies to destroy or otherwise eliminate all Seller Transitional Trademarks (which do not include the materials (whether written, electronic or otherwise) publicly displaying the Seller Transitional Trademarks) and Seller shall have the right to terminate the foregoing license, effective upon thirty (3)

days' written notice to Purchaser, if the Acquired Companies fail to materially comply with such license set forth herein; provided, that such license shall not terminate such default prior to the expiration of such thirty (30) day notice period. Notwithstanding Section 7.1 is intended to prohibit any use (or require any destruction, removal or elimination) by Purchaser or its Affiliates of any Seller Transitional Trademarks on products or related materials that have been produced (or are in production) prior to the Closing Date until such products or materials have been exhausted, (B) on non-public fixed assets that include an indelible Seller Transitional Trademark, (C) for internal business purposes, (D) to the extent required by Legal Requirements or (E) to the extent permitted by "fair use" in accordance with applicable Legal Requirements.

(c) It is expressly agreed that, Seller and its Controlled Affiliates (including its Affiliates) do not have any right, title or interest (whether express or implied) in, to or under any Trademark consisting of, incorporating or confusingly similar to, any Trademark of the Acquired Companies set forth on Schedule 7.1 (the "Business Trademarks"). As of the Closing, Seller (i) shall, and shall cause its Affiliates to, not use, apply to register or register, any Business Trademark or any colorable imitation thereof (including any non-English language variation thereof), (ii) will not, and shall cause its Controlled Affiliates to, not use, apply to register or register, any Business Trademark or any colorable imitation thereof (including any non-English language variation thereof), and (iii) shall not, and shall cause its Controlled Affiliates to, not use, apply to register or register, any Business Trademark or any colorable imitation thereof (including any non-English language variation thereof), similar name, mark, dress, number or other designation, or any confusingly similar

designation, provided, notwithstanding such limitation, Seller shall have the right to registration of, but not use, the Combination Mark or (B) contest the use, ownership of the Acquired Companies in or to any Business Trademark and (iii) shall not, and shall not otherwise do anything inconsistent with the Acquired Companies' ownership of such mark, be done any act or thing that will in any way impair the rights of the Acquired Companies or the Acquired Companies' goodwill therein or have any dilutive effect thereupon, to the Combination Mark, the foregoing covenants and limitations shall not apply to the Combination Mark as used in combination with any other word, phrase, or Trademark other than the Standalone Go Beyond Mark, and the Parties acknowledge and agree that the mark is owned by Seller or its Controlled Affiliates (other than the Acquired Companies) as

(d) Notwithstanding the restrictions set forth in Section 7.1(c), subject to the Acquired Companies hereby grant Seller and its Controlled Affiliates a limited license to use the Combination Mark following the Closing solely in substantially the same manner of such use and solely for the Acquired Companies' business as conducted immediately prior to the Closing Date until the Transitional Trademark End Date; provided, that (i)

any goodwill generated by Seller's or its Controlled Affiliates' use of the Business Trademarks prior to the Closing shall inure to the benefit of Acquired Companies; (ii) any products or services sold or provided by Seller or its Controlled Affiliates in connection with the Business Trademarks shall be consistent with the use of such marks prior to the Closing Date, including with respect to quality standards and (iii) to the extent the marks have been used, Seller and its Controlled Affiliates shall continue to display the Business Trademarks as they were displayed prior to the Closing Date. In the event Purchaser or an Acquired Company requests that Seller or its Controlled Affiliates remove the Business Trademarks prior to the Transitional Trademark End Date, Seller shall, and shall cause its Controlled Affiliates to, promptly remove such marks and, to the extent otherwise eliminate all Business Trademarks (including the Combination Mark, but not the Standalone Go Beyond Mark) from all materials (whether written, electronic or otherwise) publicly disseminated or otherwise in its possession. Purchaser shall have the right to terminate the foregoing license, effective as to the date of termination, if Seller or its Controlled Affiliates fail to materially comply with the terms set forth herein; provided, that such license shall not terminate if Seller or its Controlled Affiliates provide written notice in default prior to the expiration of such thirty (30) day notice period. Notwithstanding the foregoing, Seller shall not be prohibited from using the Business Trademarks (A) as they are included on the list of trademarks that have been produced (or are in production) prior to the Transitional Trademark End Date, (B) on non-public fixed assets and personal property that is owned by Seller or its Controlled Affiliates, (C) for internal business purposes, including in internal or archived records or systems, (D) to comply with legal Requirements or (E) to factually refer to the historical relationship with the Acquired Companies in regulatory and similar records, or as otherwise permitted by "fair use" in accordance with applicable law.

7.2 Closing and Post-Closing Access to Information.

(a) Prior to or at the Closing, Seller shall, and shall cause its Controlled Affiliates to, use commercially reasonable efforts to deliver to the Acquired Companies all documents, in any form or medium, to the extent related to the Business or the Acquisition, including any applicable attorney-client privilege, attorney work product protection and expenses incurred in connection with such books, records and documents) and in the possession of Seller and its Controlled Affiliates (other than books, records and documents the provision of which is required by the Agreement).

(b) Without limiting Seller's obligations under Section 7.2(a), from the Closing until the end of the seven (7) years, Seller shall, and shall cause its Controlled Affiliates to, and Purchaser (including the Acquired Companies) to, afford the other and its Affiliates and their representatives, during normal business hours, upon reasonable request and advance notice, reasonable access to all documents, in any form or medium, to the extent related to the Business or the Acquisition, including any applicable attorney-client privilege, attorney work product protection and expenses incurred in connection with such books, records and documents) and in the possession of Seller and its Controlled Affiliates or each Acquired Company and their Affiliates and the Business.

extent related to the Acquired Companies or the Business and for periods prior to books and records at the accessing party's

expense, to the extent that (i) in the case of Purchaser, such access is requested in connection with financial statements, any potential Proceeding or investigation by or before a Governmental Authority and stock exchange, foreign securities, SEC or other Governmental Authority reporting obligations; provided, that the foregoing shall not require the respective Affiliates to provide access or to disclose information in connection with (or their respective Affiliates), or where such party reasonably believes in good faith that such access or disclosure would contravene any Legal Requirement (including Data Protection Laws) or the terms or conditions of any legal privilege or work-product protection, or would cause significant competitive harm to their respective businesses; provided, further, that, in any such case, the applicable Law requires the party to provide such access or disclosure, the applicable Law or applicable Legal Requirements, notify the other in reasonable detail of the circumstances giving rise to the request and the method to provide such access or disclosure in a manner that complies with the described therein; provided, further, that nothing in this Agreement shall limit any party's right to access or disclose information; provided, further, that the foregoing shall not expand or otherwise affect Seller's obligations under this Agreement. For the avoidance of doubt, this Section 7.2 shall not govern access to information; access is governed solely by Section 8.5.

7.3 D&O Indemnification.

(a) From and after the Closing until the date that is six (6) years after the Closing, cause the Acquired Companies to, (i) indemnify, defend and hold harmless all of the Persons (in their capacities as such) of each of the Acquired Companies (collectively, the "Acquired Companies") from and against all costs or expenses, judgments, fines, losses, claims, damages, liabilities and amounts payable by or for any actual or threatened claim or Proceeding arising out of, relating to or resulting from any act or omission of any officer or director of any Acquired Company or is or was serving at the time of the act or omission as an officer, director, trustee, member, manager or employee of any other Person, in each case asserted or claimed prior to, at or after the Closing (including with respect to acts or omissions occurring prior to the Closing in connection with the Transaction Agreements and the consummation of the Transactions) and provide for the payment of such costs or expenses; provided, that any D&O Indemnitee to whom expenses are advanced shall reimburse the Acquired Companies to the extent required by applicable Legal Requirements, in all such cases where the Persons are indemnified or have the right to advancement of expenses prior to the Closing pursuant to (x) its organizational documents in existence as of the date of this Agreement and set forth on Schedule 1.1 (the "D&O Indemnification Agreements"), (ii) without limitation of the foregoing clause, the Acquired Companies shall, to the extent of any applicable Legal Requirement, include and not amend, repeal or modify and other provisions regarding elimination of liability of officers and directors, and

indemnification of and advancement of expenses to officers, directors and employees of any Acquired Company and (iii) without the consent of the Acquired Companies (which consent shall not be unreasonably conditioned, delayed or withheld), not settle, compromise or consent to any Proceeding or threatened Proceeding (and in which indemnification would reasonably be expected to result in a settlement, compromise or consent of the Indemnitee hereunder), unless such settlement, compromise or consent includes the release of the Indemnitee from all liability arising out of, relating to or resulting from such Proceeding.

(b) Prior to the Closing, the Acquired Companies shall, at Purchaser's expense, obtain a "tail" extension of the directors' and officers' liability coverage under the directors' and officers' liability insurance policies and fiduciary liability insurance policies (the "D&O Insurance") to cover the period from the Closing to the date that is six (6) years after the Closing.

(c) If, following the Closing until the date that is six (6) years after t or any of its respective successors or assigns, (i) shall consolidate with or merge shall not be the continuing or surviving corporation or entity of such consolidati substantially all of its properties and assets to any Person, then, and in each such that the successors and assigns of such Acquired Company or any of their respe may be, shall assume all of the obligations set forth in this Section 7.3.

(e) The obligations of Purchaser and the Acquired Company terminated, amended or modified in any manner so as to adversely affect any D successors, heirs and legal representatives) to whom this Section 7.3 applies with D&O Indemnitee (it being expressly agreed that the D&O Indemnitees to whom the beneficiaries of this Section 7.3, and this Section 7.3 shall be enforceable by such successors, heirs and legal representatives and shall be binding on all successors Acquired Company).

(a) From and after the Closing until the date that is twelve (12) months after the Closing, Seller and its Controlled Affiliates will not, and will not permit any of its Controlled Affiliates to, directly or indirectly, (i) solicit for employment or employ any such Transferred Employee with a gross annual base salary equal to or in excess of \$280,000 to leave its Affiliates or (ii) solicit for employment or employ any such Transferred Employee with a gross annual base salary equal to or in excess of \$280,000; provided, that the foregoing in this Section 7.4(a) shall not apply to (A) making general solicitations (including through the use of third parties) to recruit or hire any Transferred Employee (and hiring any Transferred Employee who was previously employed by Seller or its Controlled Affiliates for employment without prior solicitation or encouragement (including through the use of third parties) and not any other form of solicitation) or (B) hiring any Transferred Employee whose employment with Seller or its Controlled Affiliates is terminated prior to the Closing (if terminated by such Transferred Employee and not by Seller or its Controlled Affiliates) or terminated by Purchaser or its applicable Affiliate “for cause”, at least three (3) months after the Closing, and provided that any employment discussions between Seller or any of its Controlled Affiliates and any Transferred Employee who was previously employed by Seller or its Controlled Affiliates and whose employment is terminated prior to the Closing, or any employment discussions between Seller or any of its Controlled Affiliates and any Transferred Employee who was previously employed by Seller or its Controlled Affiliates and whose employment is terminated by Purchaser or its applicable Affiliate “for cause”, at least three (3) months after the Closing, shall not constitute a breach of any of the foregoing covenants, and provided that any employment discussions between Seller or any of its Controlled Affiliates and any Transferred Employee who was previously employed by Seller or its Controlled Affiliates and whose employment is terminated by Purchaser or its applicable Affiliate “for cause”, at least three (3) months after the Closing, shall not constitute a breach of any of the foregoing covenants, Purchaser will be entitled to seek injunctive relief to prevent Seller or its Controlled Affiliates from taking any action that may be available under applicable Legal Requirements.

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restrictive time period will be deemed to be the longest period permissible under geographic coverage and scope will be deemed to comprise the largest coverage Legal Requirements.

7.5 Further Assurances; Wrong Pockets.

(a) From time to time following the Closing, Seller shall, and shall cause its Controlled Affiliates to, at the sole cost and expense of Seller, acknowledge and deliver all reasonable further conveyances, notices, assumption of liability instruments, and shall take such reasonable actions as may be necessary to make good any reasonably requested by the other party; provided, however, that nothing in this Section shall require any of its respective Affiliates to expend any money, commence or participate in a lawsuit or grant any accommodation (financial or otherwise) following the Closing or (ii) expand or otherwise affect Seller's obligations under the Agreement.

otherwise) following the Closing or (ii) expand or otherwise affect Seller's obligations under the Agreement.

(b) If, for a period of twenty-four (24) months after the Closing, Seller receives funds (including any refund or other amount relating to any pre-Closing claim for third-party insurance or similar matters)) arising from the Business or (ii) owns or controls (including Intellectual Property) primarily used or held for use in the conduct of the Business, Seller shall promptly remit, transfer or assign, or cause its applicable Affiliate to remit, transfer or assign to Seller or its designated Affiliate (and the Company or its designated Affiliate shall accept and retain such funds or asset for consideration and net of Seller's reasonable out-of-pocket costs incurred to effect the remittance or transfer. Until the remittance or transfer of any such funds or asset is effected, Seller shall preserve the value of, and hold in trust for the use and benefit of, the Company or its designated Affiliate asset and provide to the Company or its designated Affiliate all of the benefit of such funds or asset and otherwise cause such funds or asset to be used as reasonably instructed by the Company. Notwithstanding the foregoing, this Section 7.5(b) is not intended to modify, and shall not be construed to modify, this Agreement or any other Transaction Agreement that expressly provides that any such funds or asset be allocated to Seller or any of its Affiliates (including with respect to general corporate assets of any of its Controlled Affiliates (other than the Acquired Companies) and to be retained in connection with the Transactions), on the one hand, or Purchaser and its Affiliates on the other hand.

(c) If, for a period of twenty-four (24) months after the Closing, Purchaser (or any of its Affiliates other than the Acquired Companies) (i) receives any funds (including any refund or other amount relating to any pre-Closing claim for workers' compensation, third-party insurance or similar matters)) arising from the Business or (ii) owns or is in possession of any material asset primarily used or held for use in the conduct of the businesses of Seller or any of its Affiliates, Purchaser shall promptly remit, transfer or assign, or cause its applicable Affiliate to remit, transfer or assign to Seller or its designated Affiliate (and Seller or its designated Affiliate shall accept and retain such funds or asset for additional consideration and net of Purchaser's reasonable out-of-pocket costs incurred to effect the remittance or transfer. Until the remittance or transfer of any such funds or asset is effected, Purchaser or its applicable Affiliate to, preserve the value of, and hold in trust for the use and benefit of, Seller or its designated Affiliate funds or asset and provide to Seller or its designated Affiliate all of the benefit of such funds or asset and otherwise cause such funds or asset to be used as reasonably instructed by Seller. Notwithstanding the foregoing, this Section 7.5(c) is not intended to modify, and shall not be construed to modify, this Agreement or any other Transaction Agreement that expressly provides that any such funds or asset be allocated to Seller or any of its Affiliates (including with respect to general corporate assets of any of its Controlled Affiliates (other than the Acquired Companies) and to be retained in connection with the Transactions), on the one hand, or Purchaser and its Affiliates on the other hand.

(d) Notwithstanding the foregoing, to the extent any provision of the Transaction Agreements specifically provides that any funds or assets shall remain the responsibility of, Purchaser, its Affiliates or the Acquired Companies, on the other hand, such provision shall control over Section 7.5(b) and Section 7.6.

7.6 Notifications. From and after the date of this Agreement and until the termination of this Agreement pursuant to its terms, each of Purchaser and Seller will jointly and severally subsequently keep the other informed on a reasonably current basis of any material change, event, or circumstance upon its becoming aware of the occurrence or existence of any change, event, or circumstance with respect to Seller or any of its Controlled Affiliates (including the Acquired Companies) that would reasonably be expected to have a Material Adverse Effect, (b) with respect to Purchaser that would reasonably be expected to have a Purchaser Material Adverse Effect or (c) will, or may, result in the Closing Conditions not being able to be satisfied prior to the Outside Date. No notification under Section 7.6 shall limit or otherwise affect any of the representations, warranties, or covenants contained in this Agreement. Any party's (a) failure to comply with this Section 7.6 or (b) failure to give this Section 7.6 will not, in and of itself, be taken into account for purposes of determining whether the Closing Conditions have been satisfied.

ARTICLE VIII

TAX MATTERS

8.1 Section 338(h)(10) Elections.

(a) Seller and Purchaser shall (or shall cause their relevant Affiliates to) make the election under Section 338(h)(10) of the Code (and any corresponding elections under applicable Regulations) with respect to the Acquired Companies (the "Section 338(h)(10) Elections").

(b) Seller and Purchaser shall (and shall cause their relevant Affiliates to) file the required filing of all forms, attachments and schedules necessary to effectuate the Section 338(h)(10) Elections.

(c) In connection with the Section 338(h)(10) Elections, as promptly after the date of the Final Purchase Price pursuant to Section 2.4(d), but in no event later than the date of the Closing, Seller shall prepare and deliver to Purchaser an allocation of the applicable "Aggregated Basis" (as defined in Treasury Regulations Section 1.338-4) among the assets of the Acquired Companies. The allocation shall be made in accordance with Section 338 of the Code and as required by Section 8.8. If within thirty (30) days of receiving the Election Allocation, Purchaser notifies Seller in writing, the Election Allocation shall become final and binding on the parties. If Purchaser does not notify Seller in writing of any objection to such allocation within the time period specified in the Election Allocation, Purchaser notifies Seller in writing of any objection to such allocation.

Purchaser and Seller shall cooperate in good faith to resolve any disputed items. If there is a dispute over a disputed item within thirty (30) days following Purchaser's written objection (or with respect to a mutually agreed item), Purchaser and Seller shall submit such disputed items to the Settlement Procedures set forth in Section 2.4(c), applied *mutatis mutandis*, provided that the Settlement Procedures shall apply Section 8.8. The Election Allocation, as finally determined pursuant to the Settlement Procedures, shall be conclusive and binding on Purchaser and Seller.

(d) Seller and Purchaser shall (and shall cause their relevant Affiliates to) file all state and local Tax Returns in a manner consistent with the Section 338(h)(10) Elections. It is understood that the "Adjusted Grossed-Up Basis" as described in Treasury Regulations shall be the extent required under such Treasury Regulations with respect to items such as Partnership Items. Neither party shall take any position inconsistent therewith on any Tax Return or in connection with a determination required pursuant to a "determination" as defined in Section 1313(a) of the Code (whether under state, local or foreign law).

8.2 Tax Returns; Allocation of Taxes.

(a) Seller and Purchaser shall prepare and file Tax Returns as follows:

(1) Seller shall prepare and timely file, or cause to be prepared, (taking into account any valid extension of a required filing date) (A) all Consolidated Tax Returns required to be filed by the Acquired Companies related to Pre-Closing Tax Periods (including Straddle Periods) (including any valid extension of a required filing date) on or before the Closing Date. E shall prepare and timely file, or cause to be prepared, in a manner consistent with past practices of the Acquired Companies, except in the case of Legal Requirements. For the avoidance of doubt, Seller shall pay, or cause to be paid, the taxes on the Tax Returns described in this Section 8.2(a)(i).

(2) Purchaser (or its Affiliates) shall prepare and timely file, or cause to be prepared, (taking into account any extensions of a required filing date) all other Consolidated Tax Returns required to be filed by the Acquired Companies related to Pre-Closing Tax Periods (including Straddle Periods) (including any valid extension of a required filing date) on or before the Closing Date, excluding, for the avoidance of doubt, any Consolidated Returns (excluding any valid extension of a required filing date) filed on or prior to the date that the Final Closing Statement becomes final and binding. Each Purchaser-Filed Tax Return shall be provided in draft form (including any applicable valid extension) of such Purchaser-Filed Tax Return in a manner consistent with past practices of the Acquired Companies, except in the case of Legal Requirements.

(3) Any Purchaser-Filed Tax Return shall be provided in draft form (including any applicable valid extension) of such Purchaser-Filed Tax Return in a manner consistent with past practices of the Acquired Companies, except in the case of Legal Requirements.

have the right to review and comment on such Purchaser-Filed Tax Return in a manner consistent with past practices of the Acquired Companies, except in the case of Legal Requirements. If Purchaser and Seller fail to resolve any disputed items within five business days of the date of delivery of such comments (or within such longer period as the parties may agree in writing), the parties shall submit such disputed items to the Settlement Accountant for resolution. The Settlement Accountant shall resolve such disputed items as soon as practicable (including any applicable valid extension) of the Purchaser-Filed Tax Return. The fees and expenses of the Settlement Accountant shall be borne in the manner contemplated by Section 2.4(c), *mutatis mutandis*.

(4) Except to the extent otherwise required pursuant to a final judgment or order of a court of competent jurisdiction, the Acquired Companies shall not, after the Closing, amend any Tax Return related to a Pre-Closing Tax Period of the Acquired Companies (including any valid extension of a required filing date) as a result of ordinary course extensions of time to file Tax Returns consistent with the applicable law. To the extent such aforementioned actions would reasonably be expected to advance the interests of the Acquired Companies, such actions shall be taken without the prior written consent of Seller (not to be unreasonably withheld or delayed).

(b) To the extent permitted by Legal Requirements, each of the Acquired Companies shall prepare and timely file, or cause to be prepared, (taking into account any valid extension of a required filing date) each of its respective taxable periods as of or prior to the Closing Date. Any Tax Return (to the extent related to the Acquired Companies) for a taxable period that includes a Straddle Period shall be filed on the basis that the relevant taxable period ends on the Closing Date. Where it is necessary for purposes of this Agreement to apportion income or loss with respect to the Acquired Companies for a Straddle Period, such Taxes shall be apportioned on the basis that the relevant taxable period ends on the Closing Date and the period deemed to begin at the beginning of the Straddle Period. For the avoidance of doubt, the period deemed to begin at the beginning of the Straddle Period shall be on the basis of an interim closing of the books, except that (i) exemptions, allowances, and deductions shall be applied on the basis of the books as they exist at the end of the Straddle Period.

annual basis and (ii) Taxes (such as real or personal property Taxes) that are imposed on the Acquired Companies, shall be allocated ratably across the entire Straddle Period on a per diem basis. The Acquired Companies shall file a federal income Tax Return of the Acquired Companies for the Tax period ending on the Closing Date in accordance with Treasury Regulations Section 1.1502-76(b)(1)(ii) and that none of any of their respective Affiliates shall make a ratable allocation election under Treasury Regulations Section 1.1502-76(b)(1)(ii) or any analogous provision of state, local or foreign Legal Requirements.

8.3 Prohibited Actions. Except as otherwise provided in Section 8.1, Purchaser shall not, and the Acquired Companies shall not, (a) take any action outside of the ordinary course of business of the Acquired Companies (or pursuant to a plan in existence on the Closing Date) that would reasonably be expected to result in a decrease in the amount of Specified Sales Taxes (or increase the amount of Specified Sales Taxes) of Seller or any of its Affiliates, (b) file any ruling request with any Tax Authority relating to the Tax Returns of the Acquired Companies for a Pre-Closing Tax Period or Straddle Period, (c) enter into any voluntary disclosure agreement with any Tax Authority relating in whole or in part to the Tax Returns of the Acquired Companies for any Pre-Closing Tax Period or Straddle Period, (d) make any change in the accounting method of any Acquired Company or change any method of Tax accounting or any Tax accounting period (or change would be effective on or prior to the Closing Date, in each case, without being unreasonably conditioned, delayed or withheld) or (e) take any action outside of the ordinary course of business of the Acquired Companies that would reasonably be expected to increase the amount of Specified Sales Taxes (or decrease the amount of Specified Sales Taxes). Notwithstanding the foregoing, the prohibitions described in clauses (b), (c) and (d) shall not apply, and shall have no force or effect, after the Final Closing Statement becomes final.

8.4 Consolidated Returns and Purchaser Consolidated Returns; Tax Proceedings. Subject to Section 8.1, Seller shall control any Tax Proceeding, Tax election or other decision or determination in respect of a Consolidated Return, and Purchaser shall control any Tax Proceeding, Tax election or other decision or determination in respect of a Purchaser Consolidated Return. Purchaser shall have the right to commence any Tax Proceeding in respect of Specified Sales Taxes (if such Tax Proceeding relates to Specified Sales Taxes) and Seller shall have the right to control, at Seller's expense, any such Tax Proceeding that relates to Specified Sales Taxes. Purchaser shall have the right to commence any Tax Proceeding in respect of Specified Sales Taxes at Purchaser's expense, and Seller shall not settle or compromise any such Tax Proceeding that relates to Specified Sales Taxes (if such Tax Proceeding relates to Specified Sales Taxes) at Purchaser's expense (not to be unreasonably withheld, conditioned or delayed).

8.5 Tax Matters Cooperation. Seller shall, and shall cause its Controlled Affiliates to, cooperate in good faith to the extent reasonably necessary to facilitate the filing of any Tax Returns in connection with any Tax Proceeding or in connection with the payment of any Taxes, in each case, related to the Acquired Companies. Such cooperation shall include, but not be limited to, (a) providing reasonable cooperation with the requests of the applicable Tax Authority (including, but not limited to, the provision of records and information reasonably relevant to any Tax Proceeding or in connection with the payment of any Taxes, in each case, related to the Acquired Companies, and (b) making employees available on a mutually convenient basis to provide an explanation of any material provided hereunder; provided, however, that nothing contained in this Agreement, (i) Seller and its Affiliates shall not be required to provide any records or information to any Tax Authority or their respective Representatives with any Consolidated Return (or copy thereof), (ii) Seller and its Affiliates shall not be required to provide Seller or any of its Affiliates or its or their respective Representatives with any Consolidated Return (or copy thereof) and (iii) neither party shall be required to provide any records or information to any Tax Authority or their respective Representatives of which it reasonably believes in good faith would result in the waiver of any legal privilege or work-product protection.

Purchaser shall cause the Acquired Companies to furnish, at Seller's sole cost and expense, all books and records with respect to Tax matters pertinent to the Acquired Companies before the Closing Date until the expiration of the applicable statute of limitations for the filing of any Tax Return with any Tax Authority. Subject to the limitations described in this Agreement, Seller shall cause the Acquired Companies to furnish, at Seller's sole cost and expense,

the Acquired Companies, any Tax information related to a Consolidated Return taxable period of the Acquired Companies that includes the Closing Date; provide reimbursement to Purchaser for any costs or expenses pursuant to this paragraph that are pocket costs or expenses.

8.6 Transfer Taxes. Notwithstanding anything to the contrary contained in this Agreement, Seller shall be liable for and shall pay (or cause to be paid) when due and shall indemnify and hold harmless Purchaser and its Affiliates from and against fifty-percent (50%) of any Transfer Taxes imposed on the Shares and the Real Estate Reorganization Plan; provided, however, that any Transfer Taxes imposed on the Topaz Reorganization shall be borne solely by Seller. The party responsible under the Tax Returns with respect to any such Transfer Taxes shall prepare and timely file a copy of such Tax Return to the other party. Seller shall, and shall cause its Corporation and shall cause its Affiliates to, cooperate in connection with the preparation and filing of such Tax Returns.

8.7 Indemnified Taxes. Seller shall indemnify and hold harmless Purchaser and its Affiliates (including, after the Closing, the Acquired Companies) from and against any Taxes and Losses (including, after the Closing, the Acquired Companies) from and against any Taxes and Losses (including, after the Closing, the Acquired Companies) resulting from any Indemnified Taxes, other than the amount of any such Taxes resulting from any violation by Purchaser or its Affiliates (including, after the Closing, the Acquired Companies) of any undertaking or obligation in this Article VIII or (b) any action taken on the Closing Date by Purchaser or its Affiliates (including, after the Closing, the Acquired Companies) outside the ordinary course of business contemplated under this Agreement. Seller's obligation to indemnify Purchaser and its Affiliates shall be limited to the proceeds of any recovery under any insurance policy with respect to such expenses, including Taxes, imposed in connection with the receipt of such proceeds. Seller shall not be required to make any indemnity payment made under this Section 8.7 to the extent of any applicable Income Tax purposes any indemnity payment made under this Section 8.7 shall be made out of the Purchase Price, except as otherwise required by applicable Legal Requirements.

8.8 Deferred Revenue. Purchaser and Seller agree that, for Tax purposes, Purchaser shall receive a payment from Seller in exchange for assuming any liability in respect of the Acquired Companies.

8.9 Survival. This Article VIII shall survive the Closing until ninety (90) days after the Closing Date, notwithstanding any limitations (including extensions) applicable to the relevant Tax matter.

ARTICLE IX

EMPLOYEES

9.1 Transferred Employees. Prior to the Closing, Seller shall transfer, or cause to be transferred, to Purchaser, the employment of each Internal Transfer Employee other than an Inactive Employee of its Subsidiaries to offer employment to an Inactive Employee to the extent such Inactive Employee presents himself for active employment within a ninety (90) day period immediately following the Closing. Any Company Employee who is employed by an Acquired Company as of the Closing Date and who immediately following the Closing shall be referred to herein as a "Transferred Employee" shall commence active employment with Purchaser or a Subsidiary of Purchaser on the Closing Date. If the second sentence of this Section 9.1, he or she will be considered a Transferred Employee as of such date.

9.2 Continuation Period. Subject to any applicable Legal Requirements, Purchaser shall provide the following benefits:

(a) For the period commencing on the Closing Date and ending on the Continuation Date, or for such shorter period of employment, as the case may be (the "Continuation Period"), Purchaser shall provide to the Transferred Employees (i) a base salary (or hourly base wage rate) provided to such Transferred Employee immediately prior to the Closing Date, plus a cash bonus or commission opportunity that is at least equal to the target annual bonus or commission opportunity provided to such Transferred Employee immediately prior to the Closing Date.

provided to such Transferred Employee immediately prior to the Closing Date (including equity or equity-based incentives, which shall not be considered to be provided in accordance with the terms and conditions (including with respect to eligible compensation plans and (iv) employee health, welfare, retirement, fringe benefits, retention, transaction or nonqualified deferred compensation) (the "Excluded Benefits") aggregate (including a combination of benefits and compensation) than the employee benefits and other benefits (other than the Excluded Benefits) provided to the Transferred Employee the Closing Date under the Benefit Plans set forth on Schedule 4.14(a) of the Schedules of the Plans as may be adopted or entered into following the date hereof, as permitted under the Plans.

(b) In the event of termination of the employment of any Transferred Employee during the Transition Period, Purchaser shall provide, or shall cause to be provided, to such Transferred Employee a severance payment less favorable than the greater of the severance pay and benefits to which such Transferred Employee was entitled immediately prior to the Closing Date under any applicable Benefit Plan set forth on the Disclosure Schedule and (ii) is entitled under any applicable severance plan, policy or program of any of its Affiliates on the actual date of termination of the Transferred Employee's employment.

(c) Purchaser shall cause its applicable Controlled Affiliates (including each Transferred Employee credit for purposes of eligibility to participate, level of participation, and benefit accruals, except for benefit accruals under the Business Pension Plan) under any arrangement maintained and made available for the benefit of Transferred Employees of Purchaser or any of its Subsidiaries, for such Transferred Employee's service prior to the Closing Date, to be applicable Controlled Affiliates and their respective predecessors, to the same extent as such service is recognized by Seller and its applicable Controlled Affiliates immediately prior to the Closing Date. Purchaser shall cause its Acquired Company Benefit Plan or Seller Benefit Plan; provided that such credit shall not result in a duplication of benefits or coverage for the same period of service; and

(d) Purchaser shall cause its applicable Controlled Affiliates (including each Transferred Employee) to provide health and welfare coverage of such Transferred Employees due to pre-existing conditions, to the extent of the requirements, and requirements to show evidence of good health under any applicable Benefit Plan of any of its Controlled Affiliates (including any Acquired Company) to the extent such coverage is provided under a comparable Benefit Plan that is a group health plan immediately prior to the Closing Date and (ii) not apply to such Transferred Employee under the applicable Benefit Plan and (iii) credit each such Transferred Employee with all deductible payments, co-payments, and out-of-pocket maximums to such employee under any Benefit Plan that is a group medical plan prior to the Closing Date. Purchaser shall cause its applicable deductible and whether such employee has reached the corresponding out-of-pocket maximum of a comparable group medical plan of Purchaser or any of its Subsidiaries for such year.

9.3 Seller Benefit Plan Participation; M&A Qualified Beneficiaries; Certification of Status
Effective as of the Closing Date (or such later date as provided under the terms of the Business Purchase Agreement), the Transferred Employees shall no longer actively participate in any Seller Benefit Plan. Notwithstanding the foregoing, Seller or its Controlled Affiliates shall retain all liability for the payment of each Transferred Employee prior to the Closing Date under those Seller Benefit Plans that provide for medical and prescription drug coverage, life, accidental death and dismemberment, disability, and other benefits. For purposes of this Section 9.3, the following claims shall be deemed to be included in the Seller Benefit Plans: disability and accidental death and dismemberment benefits, upon the event giving rise to such claims; medical, dental, vision care, prescription and health-related benefits, upon provision of such services, materials or supplies. From and after the Closing Date, Purchaser shall be solely responsible for any and all obligations arising under the Consolidated Operating Agreement (or state law equivalents) with respect to each Transferred Employee (and qualify as a "qualified beneficiary" (as defined in Treasury Regulations Section 54.4980B-9) in connection with the Closing Date, as of or as soon as practicable after the Closing Date, Purchaser or its applicable Controlled Affiliates.

applicable health and life insurance plans, health and life insurance benefits to receiving salary replacement benefits under Seller's long-term disability insurance health and life insurance benefits would have been provided to such Transferred Employee Seller Benefit Plans ("Assumed Disability Health Benefits").

9.4 Qualified Retirement Plans.

(a) Effective as of the Closing Date, Purchaser shall, or shall cause, a defined contribution retirement plan that is tax-qualified under Section 401(a) of the Code (the "Purchaser 401(k) Plan") to be established and maintained for the benefit of any Transferred Employee who is a participant immediately prior to the Closing Date in a Seller 401(k) retirement plan and is tax-qualified under Section 401(a) of the Code and includes within the meaning of Section 401(k) of the Code (each, a "Seller 401(k) Plan") the assets of the Seller 401(k) Plan as of, or as soon as administratively practicable after (but not before) the Closing Date. The parties shall take all actions necessary to permit the direct rollover of account balances of Transferred Employees from the Seller 401(k) Plan to the Purchaser 401(k) Plan, by each Transferred Employee who elects such rollover in accordance with the terms of the Seller 401(k) Plan and the Code. Each Transferred Employee who is a participant immediately prior to the Closing shall be permitted to enroll in the Purchaser 401(k) Plan in accordance with the terms of the Purchaser 401(k) Plan.

(b) Seller and its Controlled Affiliates shall take all actions necessary to ensure that Transferred Employees who participate in any Seller Benefit Plans that are intended to be fully vested in their account balances and accrued benefits under such plans as of the Closing Date, (i) cause the employees of Seller or its Controlled Affiliates (other than the employees named in Schedule 9.4(b) of the Seller Disclosure Schedule who are not Transferred Employees) to make contributions under the Business Pension Plan as of the Closing Date and (ii) as soon as practicable after the Closing Date, make all employer contributions to the Seller 401(k) Plan that would have been made if Transferred Employees had the transactions contemplated by this Agreement not to be subject to the minimum of year employment requirements, but prorated for the portion of the plan year that the Seller 401(k) Plan performance sharing match contribution shall be calculated as of the Closing Date, and, for the avoidance of doubt, will be contributed to the Seller 401(k) Plan by Seller.

(c) Purchaser and Seller shall cooperate to take any and all actions necessary to prevent, to the extent reasonably possible, a deemed distribution or loan offset with respect to the Seller 401(k) Plan with respect to Transferred Employees, including without limitation, a Transferred Employee with an outstanding loan balance under the Seller 401(k) Plan to continue to make such payments to the Seller 401(k) Plan after the Closing or (ii) at the discretion of the Seller, allowing such

Transferred Employees to elect to rollover their loan balances in-kind to the Purchaser 401(k) Plan.

(d) With respect to the Business Pension Plan, (i) Seller shall timely make the minimum required contributions (as determined by the terms of the Business Pension Plan in accordance with the requirements of Sections 412 and 430 of the Code) on the payment due dates that fall prior to the Closing Date and (ii) Purchaser or its affiliate, an Acquired Company, shall timely make to the trust under the Business Pension Plan the minimum required contributions (as determined by the actuaries of the Business Pension Plan in accordance with the requirements of Section 412 and 430 of the Code and Section 302 of ERISA) that fall due on or after the Closing Date, in each case, regardless of the plan year for which such minimum required contributions are due.

9.5 ESAs. The parties hereto agree to make reasonable, good faith efforts to effectuate, as soon as administratively practicable after the Closing Date, a transfer of Transferred Employee

spending accounts from the health and dependent care flexible spending account plans of Purchaser, taking into account such transfer outweigh the benefit to the Transferred Employees taken as a whole.

9.6 Annual Cash Bonuses; Similar Benefits. Purchaser shall, or shall cause on a pro rata basis all unpaid cash bonuses earned or accrued as of the Closing Date, to be paid to the Transferred Employees under the applicable Incentive-Based Program. The amount to be paid shall be determined for each Transferred Employee (a) based on target performance levels for the twelve months of the applicable fiscal year and (b) based on the most recently approved bonus plan of the Transferred Employee as of the Closing Date if the Closing occurs at any time other than the first three months of the applicable fiscal year. Purchaser's obligations under this Section 9.6 are subject to the inclusion of the employer portion of any payroll, social security, unemployment or similar Tax (the "Employer Tax") in Net Working Capital. Purchaser shall provide such bonus eligible Transferred Employees with cash incentives for the remainder of the fiscal year after the Closing Date, whether or not the cash incentive plans or programs maintained by Purchaser and its Affiliates are subject to Purchaser's discretion, subject to Purchaser's obligations under Section 9.2(a).

9.7 Vacation and Paid Time Off. To the extent permitted pursuant to applicable law, Purchaser and its Affiliates shall (a) with respect to each (i) Direct Employee who becomes an Internal Transfer Employee and (ii) Internal Transfer Employee who becomes a Transferred Employee, in each case, the amount of accrued but unused vacation time, paid time off and other

such Transferred Employee had with any Acquired Company, Seller or any of its Affiliates immediately prior to the Closing Date to the extent such amounts are reflected in the applicable policies of any Acquired Company, Seller or any of its Affiliates. Purchaser shall cause the Transferred Employee to use such accrued but unused vacation time, paid time off and other benefits in the same manner and upon the same terms and conditions as the Transferred Employee would have been able to use such accrued but unused vacation time, paid time off and other benefits if the Transferred Employee had remained with the Acquired Company, Seller or any of its Affiliates, in effect for the year in which such Closing Date occurs.

9.8 Communications. Prior to the Closing Date, except as otherwise applicable, Purchaser shall not make any written or oral communications to Company Employees, any compensation or benefits matters, or any redundancy and layoff matters to Company Employees in connection with the Transactions.

9.9 Seller Long-Term Incentive Awards. Seller and its Controlled Affiliates shall assume all liabilities and obligations with respect to any equity awards relating to shares of Seller or any of its Controlled Affiliates who is not a Transferred Employee as of the Closing Date to the extent such equity awards and long-term cash-based awards are held by Transferred Employees (or any director, officer, employee, contractor or agent of Seller or any of its Controlled Affiliates) as of the Closing Date pursuant to the terms and conditions of any Seller Benefit Plan.

9.10 Deferred Compensation Plans. Prior to the Closing, Seller shall establish for each Benefit Plan that is a non-tax qualified deferred compensation plan set forth in the Disclosure Schedule and in which the Transferred Employees participate as of the Closing Date (a "Deferred Compensation Plan"). Each Mirror Plan shall be subject to Purchaser's review and approval. Prior to the Closing, Seller shall cause the Transferred Employees to assume each Mirror Plan, and all liabilities and obligations related to the Mirror Plan, which liabilities are set forth on Schedule 9.10(b), and which schedule shall provide to Purchaser details relating to the accounts and liabilities of each Transferred Employee as of the Closing (the "Assumed Deferred Compensation Plan") and all information necessary to administer the Mirror Plans, including the

Transferred Employees' accounts. From and following the Closing, Purchaser or its Affiliates shall be responsible for payment of accounts payable pursuant thereto. Purchaser's obligations under this Section 9.10 are subject to the Assumed Deferred Compensation (together with the employer portion of any payroll, social security and other benefits associated with the Assumed Deferred Compensation calculated as if all such accounts were subject to Social Security wage base limits) in Indebtedness. Seller shall remain in compliance with the Seller Deferred Compensation Plans other than the Assumed Deferred Compensation Plans.

9.11 Employee Liabilities. Seller and Purchaser hereby acknowledge and agree that, as of the Closing Date, (a) Purchaser shall, or shall cause its Affiliates to, assume all liabilities and obligations resulting from the employment or termination of employment of any Company Employee (solely with respect to any period during which such Former Company Employee's responsibilities were primarily dedicated or primarily related to the Business), in addition to any such liabilities and obligations related to any Seller Benefit Plan, whenever assumed by Purchaser or its Affiliates under this Article IX, (ii) arising out of, or in connection with, any Company Benefit Plan whenever incurred and (iii) expressly assumed by Purchaser or its Affiliates under this Article IX and (b) other than the liabilities assumed by Purchaser or its Affiliates under this Article IX, Seller shall, or shall cause its Controlled Affiliates to, retain and perform (i) all liabilities and obligations of any Seller Benefit Plan or any other benefit or compensation plan, program, agreement or arrangement of any kind at any time maintained, sponsored or contributed to or required to be contributed to, thereof, whenever incurred and (ii) all other liabilities and obligations expressly retained by Seller in accordance with the provisions of this Article IX. For the avoidance of doubt, neither Seller nor (including, after the Closing, any Acquired Company) shall have any obligation to provide health, dental, vision, life insurance benefits to any Transferred Employee, Company Employee, Former Company Employee or beneficiary of any such individual, nor shall Purchaser or any of its Affiliates (in addition to the Company) assume any of Seller's liabilities or obligations related to such retiree or beneficiary under any Plan.

9.12 No Third-Party Beneficiaries. Nothing contained in this Article IX, expressly or impliedly, shall constitute or be construed to constitute any right to employment or continued employment of any Person not a party hereto (including any Company Employee or any beneficiary of any Plan) of any nature whatsoever, including any right to employment or continued employment under any Plan, Agreement, any right to a particular term or condition of employment or any right to continued employment. Notwithstanding anything to the contrary contained in this Agreement, no provision of this Agreement shall (i) constitute the establishment of, termination of or an amendment to any Benefit Plan, agreement or arrangement or (ii) limit the right of any party to this Agreement to establish, terminate or amend any Benefit Plan or other benefit or compensation plan.

ARTICLE X

CONDITIONS TO THE CLOSING

10.1 Conditions of Purchaser. The obligations of Purchaser to consummate the Closing, or any waiver by Purchaser (in its sole discretion), to the extent permitted by applicable law, shall be subject to the satisfaction, prior to the Closing, of each of the following conditions:

(a) Representations and Warranties of Seller. (i) The representations and warranties of Seller contained in the Seller Fundamental Representations and the representations and warranties contained in Article IV shall be true and correct as of the Closing as if made on the Closing Date or as of a specific date, which representation and warranty shall be true and correct as of such date, except for breaches or inaccuracies, as the case may be, as to matters that are not reasonably expected to have a Material Adverse Effect; provided, however, that the satisfaction of the condition in this clause (i), no effect shall be given to the extent

“Material Adverse Effect”, or similar “materiality” based exceptions or qualifications (ii) the Seller Fundamental Representations shall be true and correct in all material respects as of the Closing Date (other than any such representation and warranty that is made as of a specific date and shall have been true and correct in all material respects as of such date); and (iii) the representations and warranties of Seller contained in Section 9.1 shall have been true and correct in all material respects as of the Closing as if made on the Closing Date.

(b) Covenants of Seller. The covenants contained in this Agreement at or prior to the Closing shall have been complied with in all material respects.

(c) Certificate of Seller. Purchaser shall have received a certificate dated as of the Closing Date, certifying that the conditions set forth in Section 9.1 have been satisfied.

10.2 Conditions of Seller. The obligations of Seller to consummate the Transaction shall be subject to the satisfaction, or waiver by Seller (in its sole discretion), to the extent permitted by a court of competent jurisdiction, of each of the following conditions:

(a) Representations and Warranties of Purchaser. (i) The representations and warranties of Purchaser (other than the Purchaser Fundamental Representations) contained in Article V shall be true and correct in all material respects as if made on the Closing Date (other than any such representation and warranty that is made as of a specific date and shall have been true and correct in all material respects as of such date), except as may be, as to matters that, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect; provided, however, that for purposes of determining the effect of the exceptions or qualifications of “materiality” based exceptions or qualifications, in such representations and warranties, the Seller Fundamental Representations shall be true and correct in all material respects as of the Closing Date (other than any such representation and warranty that is made as of a specific date and shall have been true and correct in all material respects as of such date); and (ii) the representations and warranties of Purchaser shall have been true and correct in all material respects as of the Closing as if made on the Closing Date.

satisfaction of the condition in this clause (ii), no effect shall be given to the exceptions or qualifications of “Material Adverse Effect”, or similar “materiality” based exceptions or qualifications.

(b) Covenants of Purchaser. The covenants contained in this Agreement at or prior to the Closing shall have been complied with in all material respects.

(c) Certificate of Purchaser. Seller shall have received a certificate dated as of the Closing Date, certifying that the conditions set forth in Section 10.2 have been satisfied.

10.3 Mutual Conditions. The respective obligations of each party to consummate the Transaction shall be subject to the satisfaction, or waiver by mutual consent of, to the extent permitted by applicable law, of each of the following conditions:

(a) HSR Approval. Any waiting period (and any extension thereof) under the HSR Act shall have been terminated or shall have expired (entered into with the mutual consent of the parties) in effect with any Governmental Authority prohibiting the consummation of the sale of the Shares pursuant to this Agreement.

(b) No Orders or Proceedings. No Governmental Authority of competent jurisdiction shall have (i) issued an Order or enacted a Legal Requirement that remains in effect and

that permanently enjoins or otherwise makes illegal or prohibits the sale of the Sha Order or other Legal Requirement shall have become final and non-appealable terminate this Agreement under this [Section 11.1\(e\)](#), shall not be available to any obligation under this Agreement has been the primary cause of the issuance of such Legal Requirement; or

(f) by Seller, if:

(1) all of the Closing Conditions set forth in [Section 10.1](#) are not (or are not duly waived by Purchaser) (other than those conditions that by their nature are not to be satisfied by actions taken at the Closing, provided that each such condition would be satisfied if the Closing had occurred and the Purchaser fails to consummate the Transactions at the time the Closing was to occur);

(2) Seller has irrevocably certified in writing to Purchaser that the Closing Conditions in [Section 10.2](#) and [Section 10.3](#) have been satisfied (or duly waived by Seller) (other than those conditions that by their nature are to be satisfied by actions taken at the Closing, provided that each such condition would be satisfied if the Closing were to occur at such time) and (B) Seller is ready, prepared and able to consummate the Transactions on such date of notice and at all times during the three (3) Business Days following the date of such written certification by Seller pursuant to clause (ii) above;

(3) Purchaser fails to consummate the Closing within the three (3) Business Days following the date of delivery of such written certification by Seller pursuant to clause (ii) above.

11.2 Notice of Termination. If this Agreement is terminated pursuant to this Section 11.1, notice of termination shall be given by the terminating party to the other party (setting forth the basis on which such party is terminating the Agreement).

11.3 Effect of Termination. If this Agreement is terminated in accordance with this Section 11.1, all rights and obligations of the parties shall terminate without any liability of any party arising out of or from the termination of this Agreement. Notwithstanding the termination of this Agreement, the confidentiality, reimbursement and indemnification obligations of Purchaser under [Section 6.7](#) (Confidentiality), [Section 6.10](#) (Reimbursement and Indemnification), [Section 11.4](#) (Purchaser Termination Fee), [Article XII](#) (Miscellaneous) shall survive termination of this Agreement and (b) nothing herein shall limit the right of any party to enforce any covenant or agreement contained herein occurring prior to termination of this Agreement. The aggrieved party shall be entitled to all rights and remedies available at law or in equity.

11.4 Purchaser Termination Fee.

(a) In the event that this Agreement is validly terminated by Seller pursuant to [Section 11.1\(e\)](#) (but, with respect to [Section 11.1\(e\)](#), only if the

applicable Order or Legal Requirement arises under Antitrust Laws or the Legal Requirements set forth in [Section 10.3\(a\)](#), [Section 10.3\(c\)](#), [Section 10.3\(d\)](#) or [Section 10.3\(e\)](#)) if, in each case, at the time the applicable Order or Legal Requirement arises, the condition set forth in [Section 10.3](#) (with respect to [Section 10.3\(b\)](#)), solely to the extent that the condition set forth in [Section 10.3](#) (with respect to [Section 10.3\(b\)](#)) shall not have been satisfied, Seller shall pay to Purchaser a termination fee of one hundred million dollars (\$100,000,000) in cash.

(b) Any payment required to be made pursuant to [Section 11.4\(a\)](#) shall be made by wire transfer of immediately available funds to the account designated by Purchaser in writing by Seller at least three (3) Business Days prior to the payment date.

(c) Purchaser acknowledges and agrees that the agreement contained in [Section 11.4](#) is a material part of the Transactions and that, without this agreement, Seller would not enter into the Transactions. If Purchaser fails to promptly pay any amount due pursuant to this [Section 11.4](#), and

(d) Except for Seller's right of specific performance to the extent right to receive the Purchaser Termination Fee when payable pursuant to Section 11.4(c), expenses and interest payable pursuant to Section 11.4(c), shall constitute the sole basis for any claim or cause of action of Seller, its Controlled Affiliates and their respective Representatives against Purchaser or any of its future Controlled Affiliates and their respective Representatives, and the respective successors and assigns of the Purchaser, the other Transaction Agreements or the Transactions, including for any and all damages of any kind (whether in tort, contract or otherwise) suffered or incurred by Seller, its Controlled Affiliates and their respective Representatives, the other Transaction Agreements or the Transactions, including the termination of this agreement by Purchaser, Seller shall not bring nor permit any of its Controlled Affiliates or their respective Representatives, any successor or assign of any of the foregoing Persons, to bring any Proceeding against Purchaser, its future Affiliates, their respective Representatives, and the respective successors and assigns of the Purchaser, seeking such Liabilities or Losses suffered or incurred as a result of or under, or caused by the breach of this Agreement, the other Transaction Agreements or the Transactions, including the termination of this Agreement by Purchaser and (y) upon the payment of the Purchase Termination Fee, related costs, expenses and interest payable pursuant to Section 11.4(c), none of the foregoing shall constitute a release of Seller, its future Affiliates, their respective Representatives, and the respective successors and assigns of Seller from any further Liability or other obligation relating to or arising out of this Agreement or the Transactions; provided, that Purchaser

(e) The parties acknowledge and agree that (i) in no event shall Seller pay a Purchaser Termination Fee on more than one occasion and (ii) any payment of penalty but is liquidated damages in a reasonable amount that will compensate Seller for the fees and are payable for the efforts and resources expended and the opportunities foregone and in reliance on this Agreement and on the expectation of the consummation of the Agreement, which amount would otherwise be impossible to calculate with precision.

MISCELLANEOUS PROVISIONS

12.2 Survival. Except as set forth below in this Section 12.2, none of the r in this Agreement or in any other agreement, certificate or other document execute Closing and all such representations and warranties, including any claim arising automatically upon the Closing; provided, that such termination shall not release a for in the case of Fraud, the sole and exclusive remedy of Purchaser in respect breach of representation or warranty is the right to terminate this Agreement prior not consummate the Transactions. The covenants and agreements contained in complied with at or prior to the Closing shall not survive the Closing and no party s from and after the Closing. Subject to Section 8.9 with respect to the Tax matters de

agreements contained in this Agreement and to be performed or complied with after the consummation of the Transaction in accordance with their respective terms. Notwithstanding anything herein to the contrary, the Agreement shall be construed to affect or limit the ability of Purchaser or its Affiliates (including the Affiliates of Purchaser) to obtain or maintain R&W Insurance Policy.

12.3 Interpretation. Except as otherwise explicitly specified to the contrary, the word "section" means a Section or Article of, or schedule, annex or exhibit to, the Agreement, and the word "agreement" means a Section or Article of, or schedule, annex or exhibit to, the Agreement. (b) the word "including" (and words of similar import) shall not be construed to limit the scope of the references to a particular statute or regulation to include all rules and regulations promulgated under such statute, rules or regulation, in each case, as amended or otherwise modified.

to time (unless otherwise expressly provided), (d) words in the singular or plural form shall be construed to include the plural or singular, respectively, and words of one gender shall be held to include the other gender as appropriate, (e) the word "parties" or a party means the parties hereto or a party hereto, respectively, unless otherwise specified, (f) references to a particular Person include such Person's successors and assigns, (g) "extent" in the phrase "to the extent" means the degree to which a phrase does not mean simply "if," (h) the headings contained in this Agreement, including the table of contents to this Agreement are for reference purposes only and shall not be construed to limit the interpretation of this Agreement, (i) references to "\$" shall mean United States dollars, (j) the words "and/or", (k) the words "hereof," "herein," "hereby," "hereto" and "hereunder" shall mean the entire Agreement, including the schedules, annexes and exhibits hereto, (l) the words "writing," "written" and comparable terms refer to printing, typing and other electronic media in a visible form, (m) if the last day of the time period for the giving of notice under this Agreement falls on a day that is not a Business Day, the time period shall be extended through the next Business Day following the original expiration date, (n) the words "made available to," "delivered to," "provided to" or "furnished to" shall mean such documents have been posted to, or provided in, the Data Room and made available to the representatives of the Purchaser at least one (1) hour prior to the execution and delivery of the Transaction Documents and if an ambiguity or question of interpretation should arise, this Agreement and the Transaction Documents shall be construed as if drafted jointly by the parties thereto and no presumption or burden of proof shall be placed on either party by virtue of the authorship of any of the provisions in this Agreement and (o) any accounting term not specifically defined within the Agreement shall have the meaning ascribed to such term under GAAP.

12.4 Entire Agreement. This Agreement, the Seller Disclosure Schedule, the Transaction Documents, the Team Agreement and the other Transaction Agreements, including the other schedules specifically referred to herein and therein, constitute the entire agreement between the parties with respect to the subject matter hereof, and supersede all prior agreements and understandings between the parties.

12.5 Amendment and Waivers. This Agreement shall not be amended or modified by any oral agreement or supplemental agreement or amendment signed by Seller and Purchaser. No failure to exercise a right or remedy provided by Legal Requirement or under this Agreement shall constitute a waiver or variation of it or preclude its exercise at any subsequent time. Any such right or remedy shall preclude any further exercise of it or the exercise of any other right or remedy. Any breach of any term or provision of this Agreement shall not be construed to constitute a subsequent breach. Notwithstanding anything to the contrary contained herein, the Section 12.8(c), Section 12.9 and Section 12.12(c) (collectively, the "DFS Provision");

manner that is adverse to a Debt Financing Source, without the prior written consent of the Debt Financing Source, or be unreasonably withheld, conditioned or delayed).

execution, that the action is brought in an inconvenient forum, that the venue of the
or the transactions contemplated hereby may not be enforced in or by such cot
Section 12.8(c).

12.9 Waiver of Jury Trial. TO THE EXTENT NOT PROHIBITED BY APPL CANNOT BE WAIVED, THE PARTIES IRREVOCABLY AND UNCONDITIONALLY WILL NOT ASSERT (WHETHER AS PLAINTIFF, DEFENDANT OR OTHERWISE ANY PROCEEDING ARISING IN WHOLE OR IN PART UNDER OR IN CONNE OTHER TRANSACTION AGREEMENT OR ANY OF THE TRANSACTIONS (INCL DEBT FINANCING SOURCE ARISING OUT OF THIS AGREEMENT OR THE DEF NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CC PARTIES AGREE THAT ANY OF THEM MAY FILE A COPY OF THIS PARAGR EVIDENCE OF THE KNOWING, VOLUNTARY AND BARGAINED-FOR AG UNCONDITIONALLY AND IRREVOCABLY TO WAIVE THEIR RESPECTIVE I PROCEEDING WHATSOEVER BETWEEN OR AMONG THEM RELATING T TRANSACTION AGREEMENT OR ANY OF THE TRANSACTIONS AND THAT SU TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE SITTING WITH

12.10 Specific Performance.

(a) Each party acknowledges and agrees that, in the event that ar not performed in accordance with their specific terms or are otherwise breache damaged and (ii) such party would not have any adequate remedy at law and w monetary damages. Accordingly, in addition to any other right or remedy to which a that party shall be entitled to an injunction or injunctions to prevent breaches or thr to compel specific performance of the terms and provisions of this Agreement consummate the Closing as contemplated hereby, which shall include the obliga against any Debt Financing Sources, to the extent necessary to cause such Del accordance with the Debt Commitment Letter if such Debt Financing Sources' failu Closing) without (A) the need for proof of actual damages and (B) the requirement security or indemnity. Furthermore, each party irrevocably waives and agrees not the equitable remedy of specific performance is (1) unavailable to prevent or re specifically enforce the terms of this Agreement (including to require the othe contemplated hereby), (2) invalid, (3) unenforceable, (4) contrary to law or (5) inequ monetary damages would provide an adequate remedy.

(b) For the avoidance of doubt, while Seller may pursue both a grant with this Section 12.10 and the payment of the Purchaser Termination Fee circumstances shall Seller be permitted or entitled to receive both a grant of special use valuation for the Transactions and any such Purchaser Termination Fee.

12.11 Severability. Each of the provisions of this Agreement is severable, such that if any provision is found to be invalid or unenforceable in any respect under the Legal Requirements in that respect in such jurisdiction and the parties shall use all reasonable efforts to enforceable substitute provision the effect of which is as close to its intended effect

12.12 Certain Releases.

(a) From and after, and subject to the occurrence of, the Closing, Legal Requirement: (i) Purchaser, for itself and on behalf of its Affiliates (inc Companies) and its and their respective successors and assigns of the foregoing (each, a "Purchaser Releasing Party"), acknowledges and agrees that, from an permitted under applicable Legal Requirements, any and all rights, claims, de setoffs, counterclaims, actions and causes of action whatsoever (in each case, v otherwise, known or unknown, or due or to become due, express or implied, in law

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(b) Notwithstanding anything in this Agreement to the contrary Seller each acknowledges and agrees that no recourse under this Agreement or a connection with this Agreement shall be had against any Seller Releasee (other than Purchaser), as applicable, whether by the enforcement of any as proceeding, or by virtue of any statute, regulation or other applicable Legal Req acknowledged that no personal liability whatsoever shall attach to, be imposed on Releasee (other than Seller) for any obligation of Seller under this Agreement or a connection with this Agreement or by any Purchaser Releasee (other than Purchaser) under this Agreement or any documents or instructions delivered in connection with this Agreement based on, in respect of or by reason of such obligations or their creation.

(c) Notwithstanding anything in this Agreement to the contrary Seller, its Controlled Affiliates, and its and their respective Representatives, hereby waives its and their respective liabilities, defenses, setoffs, counterclaims, actions and causes of action against Seller with this Agreement, the Debt Commitment Letter or the Debt Financing, in each case contemplated hereby or thereby, whether at law or in equity, and Seller, for itself and its and their respective Representatives, agrees not to commence any Proceedings in connection with this Agreement, the Debt Commitment Letter or the Debt Financing or any transactions contemplated hereby or thereby, whether at law or in equity. In furtherance of this waiver, Seller, for itself and on behalf of its Controlled Affiliates, and its and their respective Representatives, acknowledges and agrees that no Debt Financing Source shall have any liability for any such transactions contemplated hereby or thereby in connection with the Debt Commitment Letter, the Debt Financing or the transactions contemplated hereby or thereby. Notwithstanding anything to the contrary in Section 12.12(c) shall limit, impair or otherwise modify (i) the rights of any of the Debt Financing Sources (including Purchaser or its Affiliates party to the Debt Commitment Letter and their obligations set forth in the Debt Commitment Letter in accordance with the terms and conditions of the Debt Financing Sources, or any of the rights of Purchaser or its Affiliates set forth in the Debt Commitment Letter or its documentation with respect to the Debt Financing.

12.13 The Seller Disclosure Schedule, Schedules, Annexes and Exhibits. The Seller Disclosure Schedule, schedules, annexes and exhibits attached to this Agreement shall be construed and interpreted in accordance with the Agreement to the same extent as if the same had been set forth verbatim herein. The Seller set forth in this Agreement are made and given subject to the disclosures contained in the Seller Disclosure Schedule and as supplemented by the front matters of the Schedules, of the Seller Disclosure Schedule will not be construed as an admission that the matter underlying such information did not arise in the ordinary course of business consistent with past practice, that such information is material to the business (or any part thereof) of Seller, any Acquired Company or the Business or that any Materiality Standard (as defined in the Seller Disclosure Schedule) shall be deemed to be disclosed on a portion of a Section, of this Agreement; provided, that disclosure of any matter in the Seller Disclosure Schedule shall be deemed to be disclosure of such matter within the scope of a Section, of this Agreement to which such matter is specifically cross referenced or to which it is reasonably apparent on its face that such disclosure applies. The headings contained in the Seller Disclosure Schedule are inserted for convenience only and shall not be considered in interpreting or construing this Agreement.

12.14 Notices. Any notice required or permitted to be given hereunder shall be deemed to have been duly given or made (a) when personally delivered, (b) on the next Business Day between 9:00 a.m. and 6:00 p.m. Eastern Time on a Business Day, or, if after 6:00 p.m. Eastern Time on a Business Day, the next Business Day) (provided, that the sending of an email message generated message from the recipient's email server that such email could not be delivered on the Business Day after deposit with an overnight courier service, in each case to the address specified in the Seller Disclosure Schedule).

parties indicated below (or such other address, email address or attention party as notice given to the sending party in accordance with this [Section 12.14](#)):

To Purchaser at:

BAE Systems, Inc.
1101 Wilson Blvd, Suite 2000
Arlington, VA 22209
Attention: SVP, General Counsel and Corporate Secretary
VP and Associate General Counsel
Email: alice.eldridge@baesystems.com
katherine.h.brown@baesystems.com

With copies (which shall not constitute notice) to:

Kirkland & Ellis LLP
601 Lexington Avenue
New York, NY 10022

Attention: Sarkis Jebejian, P.C.
Edward J. Lee, P.C.
Steven Y. Li
Email: sarkis.jebejian@kirkland.com
edward.lee@kirkland.com
steven.li@kirkland.com

To Seller at:

Ball Corporation
9200 W. 108th Circle
Westminster, Colorado 80021
Attention: General Counsel
Associate General Counsel
Email: CBaker@ball.com
Kate.Kimball@ball.com

With copies (which shall not constitute notice) to:

Skadden, Arps, Slate, Meagher & Flom LLP
155 North Wacker Drive
Chicago, Illinois 60606
Attention: Shilpi Gupta and David R. Clark
Email: Shilpi.Gupta@skadden.com;
David.Clark@skadden.com

12.15 No Third-Party Beneficiaries. Except for [Section 6.10\(b\)](#) (with respect to Affiliates' respective Representatives), [Section 6.13\(b\)](#) (with respect to Purchaser's respective former and current Representatives), [Section 7.3](#) (with respect to the successors, heirs and legal representatives), the DFS Provisions (to the extent the provisions of [Section 11.4\(d\)](#) (which shall be enforceable by Purchaser's respective Representatives, and the respective successors and assigns of the [Section 12.12](#) (which shall be enforceable by the Seller Releasees and the Purchaser) with respect to Skadden and Axinn), a Person who is not a party to this Agreement shall not be intended to give any Person other than the parties to this Agreement any rights hereunder.

and that neither Skadden nor Axinn has acted as counsel for any other party in parties agree that, in the event that a dispute arises after the Closings between Seller, Purchaser, any Acquired Company or their respective Affiliates, on the one hand, and Seller, its Affiliates, the Acquired Companies or their respective Affiliates, on the other hand, representing Seller and its Affiliates in such dispute even though the interests of Seller may conflict with those of Purchaser, the Acquired Companies or their respective Affiliates, and even if Seller, its Affiliates, the Acquired Companies or their respective Affiliates have previously represented any of the Acquired Companies or any of their Affiliates in a matter subject to the Closing or may be handling ongoing matters for Purchaser, any Acquired Company or their Affiliates, Purchaser further agrees that all communications among Seller, the Acquired Companies or their Affiliates (in the case of the Acquired Companies and their Affiliates, solely prior to the Closings), including in-house counsel, Skadden and Axinn, on the one hand, and Seller, its Affiliates, the Acquired Companies or their Affiliates, on the other hand, that relate to the Transactions are deemed attorney-client privileged communications (collectively, the "Privileged Communications"). The privilege and the expectation of client confidence belongs to Seller and may be waived by Seller or anything to the contrary contained in this Agreement, shall not pass to or be claimed by Purchaser or any of their Affiliates. The Privileged Communications are (and upon the Closing will be) confidential. Any such Privileged Communications made prior to the Closing Date, Purchaser, its Affiliates, the Acquired Companies, successors and assigns, further agrees that no such party may disclose the Privileged Communications for any purpose without a waiver of the attorney-client privilege at Seller's sole discretion. The Privileged Communications may be used by Seller in connection with any way to the Transactions. Notwithstanding the foregoing, in the event that a dispute arises after the Closings between Seller, Purchaser, any Acquired Company or any of their respective Affiliates, on the one hand, and Seller, its Affiliates, the Acquired Companies or their respective Affiliates, on the other hand, representing Seller and its Affiliates in such dispute even though the interests of Seller may conflict with those of Purchaser, the Acquired Companies or their respective Affiliates, and even if Seller, its Affiliates, the Acquired Companies or their respective Affiliates have previously represented any of the Acquired Companies or any of their Affiliates in a matter subject to the Closing or may be handling ongoing matters for Purchaser, any Acquired Company or their Affiliates, Purchaser further agrees that none of the Acquired Companies nor their Affiliates may assert the attorney-client privilege to prevent disclosure of the Privileged Communications to Seller or its Affiliates; provided, however, that none of the Acquired Companies nor their Affiliates may disclose the Privileged Communications prior written consent of Seller.

12.18 Reliance on Counsel and Other Advisors. Each party has consulted experts as it deems necessary or desirable before entering into this Agreement.

12.19 Public Announcements. None of Seller or its Controlled Affiliate or any of its Representatives or any of their respective employees or any other Representative of any such party shall issue or cause the publication of any press release or any other public communication in respect of this Agreement or the Transactions without the prior written consent of the disclosing party (which consent shall not be unreasonably withheld, conditioned or delayed), except as may be required by applicable law, any applicable Requirement or stock exchange rules or as the disclosing party deems necessary to comply with applicable foreign securities laws) filing requirements, in which case the party seeking to make such announcement or other public communication shall provide the disclosing party with a copy of such announcement or other public communication.

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foregoing, this Section 12.19 shall not apply to the disclosure of the express term required by Legal Requirement, stock exchange rules, U.K. listed company rules laws) filing requirements.

12.20 Counterparts. This Agreement may be signed in any number of counterparts thereof delivered by electronic mail, each of which shall be deemed an original, and thereto and hereto were upon the same instrument.

12.21 Purchaser Guarantor.

(a) To induce Seller to enter into this Agreement, Purchaser Guarantor hereby absolutely, irrevocably and unconditionally guarantees to Seller, as primary and punctual payment of the Purchase Price by Purchaser (or any Purchaser Designee) in each case in accordance with and solely if, as and when required by the terms of this Agreement. Purchaser Guarantor agrees that its Obligations under this Section 12.21 are unconditional and shall not be discharged or impaired or otherwise affected by, and waives any defenses to enforcement it may have (now or in the future) by unenforceability of any Obligation or this Agreement or any related agreement or Order of any jurisdiction or any other event affecting any term of the Obligations; (ii) of payment or performance of, or in any other term of the Obligations, or any amendment or other modification of this Agreement except to the extent Seller agrees to such modification; (iii) of any substitution, release, impairment, amendment, waiver, modification or other guaranty for the Obligations, or any manner of sale, disposition or application of assets to all or part of the Obligations; (iv) any default, failure or delay, willful breach of the Obligations; (v) any change, restructuring or termination of the corporate structure of Purchaser Guarantor or Purchaser (or any Purchaser Designee) or any insolvency, bankruptcy proceeding affecting Purchaser (or any Purchaser Designee) or its (or their) assets or discharge of any Obligations; (vi) the failure of Seller to assert any claim or demand for remedy under the provisions of this Agreement or otherwise; or (vii) the existence of any recoupment.

or other rights that Purchaser Guarantor or Purchaser (or any Purchaser Designee) may have in or to the assets of Purchaser (or any Purchaser Designee) in defense of payment or performance; provided, however, that, notwithstanding any limitation on the rights of Purchaser Guarantor, Purchaser Guarantor does not waive any defenses to the payment of the Obligations under the express terms of this Agreement.

(b) Purchaser Guarantor hereby represents and warrants to Seller

(1) Purchaser Guarantor is duly incorporated, validly existing and in compliance with the Requirements of the jurisdiction of its incorporation.

(2) Purchaser Guarantor has the requisite corporate power to enter into this Agreement and each other Transaction Agreement to which it is a party, to perform its obligations under each other Transaction Agreement to which it is a party and to consummate the transactions contemplated by the terms of this Agreement and each other Transaction Agreement to which it is a party and the consummation of the Transactions have been duly and validly authorized by the board of directors of Purchaser Guarantor and such authorization has not been withdrawn or annulled.

(3) This Agreement has been duly and validly executed and delivered by Purchaser Guarantor, and constitutes, assuming due authorization, execution and delivery of this Agreement by Purchaser Guarantor, an enforceable obligation of Purchaser Guarantor, enforceable against Purchaser Guarantor. Assuming due authorization, execution and delivery of each other Transaction Agreement by Purchaser Guarantor, each such Transaction Agreement shall constitute, assuming due authorization, execution and delivery of this Agreement by Purchaser Guarantor, an enforceable obligation of Purchaser Guarantor, enforceable against Purchaser Guarantor.

legal obligation of Purchaser Guarantor, enforceable against Purchaser (thereof.

(4) The execution, delivery and performance by Purchaser of any other Transaction Agreement to which Purchaser Guarantor is a party and does not conflict with, violate or result in a breach of any Contract, Letter of Intent or other agreement entered into by Purchaser Guarantor, except for such conflicts, violations or breaches that delay the ability of Purchaser Guarantor to pay the Obligations.

(c) Purchaser Guarantor further acknowledges and agrees as follows:

(1) Purchaser Guarantor hereby unconditionally and irrevocably and non-transferably guarantees the performance of the Obligations under Section 12.21 and acknowledges that this Section 12.21 is continuing in nature and future Obligations, until the complete, irrevocable and indefeasible performance of the Obligations or the termination of this Agreement pursuant to Section 11.1.

(2) This Section 12.21 is a direct guaranty and independent obligation of Purchaser Guarantor (or any Purchaser Designee) under this Agreement. Seller may

resort to Purchaser Guarantor for payment and performance of the Obligations if Seller has first exhausted all remedies available to it. If Seller has proceeded against Purchaser (or any Purchaser Designee) with respect to the Obligations, Seller may, without prejudice to its right to proceed against Purchaser Guarantor and Purchaser (or any Purchaser Designee), proceed against Purchaser Guarantor only without having obtained a judgment against Purchaser (or any Purchaser Designee).

(3) Purchaser Guarantor agrees that its guaranty herein shall be reinstated, as the case may be, if at any time all or part of any payment or Obligation is not received by Seller or must otherwise be returned by Seller upon the insolvency, bankruptcy or liquidation of Purchaser (or any Purchaser Designee).

(d) Purchaser Guarantor waives and shall not exercise any rights to contribution, reimbursement or indemnification for payments made under this Section 12.21 if such payments have been indefeasibly paid and discharged in full. For the avoidance of doubt, Purchaser Guarantor agrees to be bound by the provisions of this Agreement for purposes of any provisions other than this Section 12.21.

[Signature pages follow.]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and delivered as of the date first written above.

BAE SYSTEMS, INC.

By: /s/ Alice M. Eldridge
Name: Alice M. Eldridge
Title: SVP, General Counsel

BALL CORPORATION

By: /s/ Charles E. Baker
Name: Charles E. Baker
Title: Vice President & Corporate Secretary

By: /s/ David Parkes
Name: David Parkes
Title: Company Secretary

*The following list identifies contents of schedules and similar attachments omitted from i
dated as of August 16, 2023, by and among BAE Systems, Inc., Ball Corporation and, sole.
Systems plc (the “Agreement”) contained in this Exhibit 2.1 pursuant to Item 601(a)(5) of
and similar attachments as to which information is otherwise included within this Exhibit 2.1
thereof (capitalized terms in this list have the respective meanings ascribed to them in the /*

Annex A..... Certain Financial Definitions and Matte
Annex B..... Real Estate Reorganization Plan

Exhibit A

Schedule 1.1(a) of the Seller Disclosure Schedule

Schedule 1.1(b) of the Seller Disclosure Schedule

Schedule 1.1(c) of the Seller Disclosure Schedule

Schedule 1.1(d) of the Seller Disclosure Schedule

Schedule 1.1(e) of the Seller Disclosure Schedule

Schedule 1.1(f) of the Seller Disclosure Schedule

Schedule 1.1(g) of the Seller Disclosure Schedule

Schedule 4.2 of the Seller Disclosure Schedule

Schedule 4.3 of the Seller Disclosure Schedule

Schedule 4.4 of the Seller Disclosure Schedule

Schedule 4.5 of the Seller Disclosure Schedule

Schedule 4.7 of the Seller Disclosure Schedule	
Schedule 4.8 of the Seller Disclosure Schedule	
Schedule 4.9 of the Seller Disclosure Schedule	
Schedule 4.10 of the Seller Disclosure Schedule	
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Schedule 4.12 of the Seller Disclosure Schedule	
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Schedule 4.14 of the Seller Disclosure Schedule	
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Schedule 4.18 of the Seller Disclosure Schedule	
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Schedule 4.21 of the Seller Disclosure Schedule	
Schedule 4.22 of the Seller Disclosure Schedule	
Schedule 6.1 of the Seller Disclosure Schedule	
Schedule 6.5 of the Seller Disclosure Schedule	
	Termination of Interc
Schedule 6.8(a) of the Seller Disclosure Schedule	

Schedule 6.11(c) of the Seller Disclosure Schedule

Schedule 6.13(b) of the Seller Disclosure Schedule

Schedule 6.15 of the Seller Disclosure Schedule

Schedule 6.18(c) of the Seller Disclosure Schedule

Schedule 7.1 of the Seller Disclosure Schedule

Schedule 7.3 of the Seller Disclosure Schedule

Schedule 9.4 of the Seller Disclosure Schedule

Schedule 9.6 of the Seller Disclosure Schedule

Schedule 9.10 of the Seller Disclosure Schedule

**Bylaws
of
Ball Corporation
(As of October 23, 2024)**

**Article 1
Capital Stock**

Section A. Classes of Stock. The capital stock of the corporation shall consist of one or more classes, with such designations and such relative rights, preferences, qualifications voting rights, and for such consideration as shall be stated in or determined in accordance with the terms of the certificate of incorporation and any amendment or amendments thereof, or the Indiana Business Corporation Law, capital stock of the corporation owned by the corporation shall be accounted for as treasury stock.

Section B. Certificates for Shares. All share certificates shall be consecutively numbered and signed by the chairman and the corporate secretary.

Section C. Transfer of Shares. The shares of the capital stock of the corporation shall be transferable only in whole shares, and only by the holder thereof, or by his attorney, upon the surrender of the certificate, whereupon a new certificate shall be issued to the transferee. The transfer of shares shall not be valid until the new certificate is issued.

stock shall be subject to the laws of the State of Indiana. The board of directors shall appoint one or more stock registrars and/or transfer agents in the State of Indiana or in any other state.

Section D. Control Share Acquisition Statute Inapplicable. Chapter 42 (IC 23-1-42) shall not apply to control share acquisitions of shares of the corporation.

Article 2

Shareholders

Section A. Annual Meetings. The regular annual meeting of the shareholders shall be held on the fourth (4th) Wednesday after the first (1st) Wednesday in April of each year, or at such other time and place as may be designated from time to time by the board of directors, and for the transaction of such other business as may be transacted by the shareholders.

Section B. Special Meetings. Special meetings of the shareholders may be called by the board of directors or as otherwise may be required by law.

Section C. Time and Place of Meetings. All meetings of the shareholders shall be held at the principal office of the corporation or at such other place within or without the State of Indiana and at such time by the board of directors.

Section D. Notice of Shareholder Nominations of Directors. Only persons who are eligible to be elected as directors of the corporation with the following procedures shall be eligible for election as directors of the corporation: (i) provided in the Amended Articles of Incorporation of the corporation with respect to the corporation to nominate and elect a specified number of directors in certain circumstances; (ii) election to the board of directors may be made at any annual meeting of shareholders or by any duly authorized committee thereof; or (b) by any shareholder of record on the date of the giving of the notice provided for in this Section D and or shareholders entitled to vote at such annual meeting and (ii) who complies with the procedures set forth in Section D.

In addition to any other applicable requirements, for a nomination to be made at an annual meeting, the shareholder must have given timely notice thereof in proper written form to the Secretary of the corporation.

To be timely, a shareholder's notice to the Secretary must be delivered to the principal executive offices of the corporation not less than ninety (90) days nor more than one hundred (100) days prior to the anniversary date of the immediately preceding annual meeting of shareholders; provided, if no annual meeting is called for a date that is not within thirty (30) days before or after the anniversary date, the shareholder's notice must be received not later than the close of business on the day on which such notice of the date of the annual meeting was mailed or, if no annual meeting was made, whichever first occurs. In no event shall the public disclosure of a shareholder's notice commence a new time period for the giving of a shareholder's notice as described herein.

To be in proper written form, a shareholder's notice to the Secretary must contain the following information: (i) the shareholder proposes to nominate for election as a director and as to the shareholder's Associated Person (as defined below) (i) the name, age, business address, residence address, (ii) the principal occupation or employment of such person, (iii) the class and number of shares of stock of the corporation which are owned beneficially or of record by such person that would be required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for election of directors pursuant to Section 14 of the Securities Exchange Act of 1934 (the "Exchange Act"), and the rules and regulations promulgated thereunder, (v)

all arrangements or understandings between or among such persons pursuant to which the shareholder or any relationship between or among the shareholder giving Person, on the one hand, and each proposed nominee, on the other hand, (ix) a request to appear in person or by proxy at the meeting to nominate the persons named in the statement required to be set forth in a Schedule 13D filed pursuant to Rule 13d-1(a) or an amendment to such a statement were required to be filed under the Exchange Act and the rules and regulations thereunder, the shareholder or any Shareholder Associated Person, and (xi) a representative statement in support of director nominees other than the corporation's nominees in support of such nominees under the Exchange Act. Any information required by this paragraph shall be supplied to the corporation by notice not later than ten (10) days after the record date for the meeting as of which the statement is accompanied by a written consent of each proposed nominee to being named as a director for a full term if elected. The corporation may require any proposed nominee to furnish such information as may be required by the corporation to determine the eligibility of such proposed nominee to serve as a director of the corporation or that could be material to a reasonable shareholder's understanding of such nominee.

No person shall be eligible for election as a director of the corporation unless he or she has been elected in accordance with the procedures set forth in this Section D (including the provision of the informational statement set forth in the preceding paragraph). If the Chairman of the meeting determines that a nomination is not in accordance with the foregoing procedures, the Chairman shall declare to the meeting that the nomination shall be disregarded.

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Section E. Notice of Shareholder Proposals of Business. No business of shareholders, other than business that is either (a) specified in the notice of meeting or at the direction of the Board of Directors (or any duly authorized committee thereof) brought before the annual meeting by or at the direction of the board of directors (or any duly authorized committee thereof) properly brought before the annual meeting by any shareholder of the corporation (i) on or before the date of the giving of the notice provided for in this Section E and on the record date entitled to vote at such annual meeting and (ii) who complies with the notice procedure set forth in this Section E.

In addition to any other applicable requirements, for business to be properly conducted, such shareholder must have given timely notice thereof in proper form to the corporation.

To be timely, a shareholder's notice to the Secretary must be delivered to executive offices of the corporation not less than ninety (90) days nor more than one hundred (100) days prior to the anniversary date of the immediately preceding annual meeting of shareholders; if an annual meeting is called for a date that is not within thirty (30) days before or after the anniversary date, a shareholder in order to be timely must be so received not later than the close of business on the day on which such notice of the date of the annual meeting was mailed or sent by first class mail. If an annual meeting was made, whichever first occurs. In no event shall the public disclosure of the date of the annual meeting commence a new time period for the giving of a shareholder's notice as described above.

To be in proper written form, a shareholder's notice to the Secretary I shareholder proposes to bring before the annual meeting a brief description of the I annual meeting and the reasons for conducting such business at the annual mee notice and any Shareholder Associated Person, (i) the name and record address o number of shares of capital stock of the corporation which are owned beneficia nominee holder for, and number of, shares owned beneficially but not of record by to which any hedging or other transaction or series of transactions has been ente agreement, arrangement or understanding (including any derivative or short positi or loaned shares) has been made, the effect or intent of which is to mitigate loss tr changes for, or to increase or decrease the voting power of, such person wit corporation, (v) to the extent known by the shareholder giving the notice, the nan supporting the proposal of business on the date of such shareholder's notice, I understandings between or among such persons in connection with the proposal o any material interest in such business and (vii) a representation that the sharehol person or by proxy at the annual meeting to bring such business before the meeti this paragraph shall be supplemented by the shareholder giving the notice not late for the meeting as of the record date.

No business shall be conducted at the annual meeting of shareholders except business properly brought before the meeting in accordance with the procedures set forth in this Section E (including those procedures set forth pursuant to the immediately preceding paragraph); provided, however, that, on or before the annual meeting in accordance with such procedures, nothing in this Section E shall preclude discussion by any shareholder of any such business. If the Chairman of an annual meeting determines that business was not properly brought before the meeting and such business was not properly brought before the meeting in accordance with the foregoing procedures, the Chairman may, at his or her discretion, bring such business before the meeting that the business was not properly brought before the meeting and such business was not properly brought before the meeting in accordance with the foregoing procedures.

Section F. Definitions.

For purposes of Article Two of these Bylaws:

"Public disclosure" shall mean disclosure in a press release reported by the Press or comparable national news service or in a document publicly filed by Exchange Commission pursuant to Section 13, 14 or 15(d) of the Exchange Act.

"Shareholder Associated Person" of any shareholder shall mean (i) any person with such shareholder and (ii) any person controlling, controlled by or under common Shareholder Associated Person.

Section G. Proxies.

Any shareholder directly or indirectly soliciting proxies from other shareholders white, which color shall be reserved for the exclusive use for solicitation by the board

Article 3 Directors

Section A. Number and Terms of Office. The business of the Corporation accordance with the Indiana Business Corporation Law by a board of eleven directors governed by IND. CODE §23-1-33-6(c).

Section B. Eligibility. No person shall be eligible for election or reelection age of seventy-five prior to or on the day of election or reelection. A director who att her term of office shall be eligible to serve only until the annual meeting of shareholders such director's seventy-fifth birthday, or until his or her successor is elected and qualified

Section C. Director Resignation Policy.

In an uncontested election of directors of the corporation, any nominee who "withheld" from his or her election than votes "for" his or her election will, within ten shareholder vote, tender his or her written resignation to the chairman of the Nominating/Corporate

Governance Committee (the "Committee"). As used in this Section C, an "un corporation" is an election in which the only nominees are persons nominated by the

The Committee will consider such tendered resignation and, within sixty (6 shareholder vote, will make a recommendation to the board of directors concerning resignation. In determining its recommendation to the board, the Committee will consider members of the Committee.

The Committee also will consider a range of possible alternatives concerning the members of the Committee deem appropriate, including, without limitation, acceptance resignation or rejection of the resignation coupled with a commitment to seek to a reasonably believed by the Committee to have substantially resulted in the "withheld

The board of directors of the corporation will take formal action on the Committee ninety-five (95) days following the certification of the shareholder vote. In considering board will consider the information, factors and alternatives considered by the Committee factors and alternatives as the board deems relevant.

Following the board's decision on the Committee's recommendation, the corporation after such decision is made, will publicly disclose, in a Current Report on Form 8-K Commission, the board's decision, together with an explanation of the process followed applicable, the board's reason or reasons for its decision.

No director who, in accordance with this Section C, is required to tender his Committee's deliberations or recommendation, or in the board's deliberations or de rejecting his or her resignation as a director. If a majority of the members of the i votes "withheld" from their election than votes "for" their election, then the independ directors who received a greater number of votes "for" their election than vote: directors, if any, who were not standing for election, will appoint an ad hoc board "Ad Hoc Committee"), consisting of such number of directors as they may det purpose of considering and making a recommendation to the board with respect t Committee shall serve in place of the Committee and perform the Committee's Notwithstanding the foregoing, if an Ad Hoc Committee would have been created eligible to serve on it, the entire board of directors (other than the director whose r the determination to accept or reject the tendered resignation without any recommi the creation of an Ad Hoc Committee.

This director resignation policy set forth in this Section C, as it may f summarized or included in the corporation's proxy statement for each meeting of s directors are to be elected.

Section D. Regular Meetings. The regular annual meeting of the board of the adjournment of each annual meeting of the shareholders. Regular quarterly mei held on the fourth (4th) Wednesday after the first (1st) Wednesday of January, July, other date as may be designated from time to time by the board of directors.

Section E. Special Meetings. Special meetings of the board of directors r chairman of the board or by the board, by giving to each director an oral or written r of holding such meetings.

Section F. Time and Place of Meetings. All meetings of the board of dire of the corporation, or at such other place within or without the State of Indiana and i time to time by the board of directors.

Section G. Notices. Any notice, of meetings or otherwise, which is given o may be in the form of oral notice.

Section H. Committees. The board of directors is expressly authorized to of the board of directors to serve on them, as follows:

(1) Temporary and standing committees, including an executive committe may be appointed by the board of directors, from time to time. The board of director powers and limit the authority of such committees as it may see fit, subject to condit committee shall consist of three or more members of the board. All other committee of the board. All committees so appointed shall keep regular minutes of the transac to be recorded in books kept for that purpose in the office of the corporation, and sh directors at its next meeting. Within its area of responsibility, each committee shall f the board of directors, except as limited by the board of directors or by law, and sha execution of an affixation of the seal of the corporation to all papers or documents v

(2) Neither the designation of any of the foregoing committees or the dele to relieve the board of directors, or any member thereof, of any responsibility impos

Section I. Loans to Directors. Except as consistent with the Indiana Bus shall not lend money to or guarantee the obligation of any director of the corporation

Article 4 Officers

Section A. Election and Term of Office. The officers of the corporation shall be elected at the regular annual meeting of the board, unless the board shall otherwise determine. The board of directors, if so designated as an officer by the board, a chief executive officer, a president (any one or more of whom may be designated "corporate," "group," or "other"), a corporate secretary, a treasurer, a controller, and may include a vice-chairman of the board of directors may, from time to time, designate a chief operating officer and a chief financial officer of the corporation. At any one time a person may hold more than one office and any vice-chairman of the board must be a director of the corporation. Each officer's successor shall have been duly elected and qualified or until removed with or without cause. Vacancies in any of such offices may be filled for the unexpired portion of the term of the officer.

Section B. Chairman of the Board. The chairman of the board shall preside at all meetings of the directors and of the shareholders. He shall confer from time to time with members of the board of directors and shall perform such other duties as may be assigned to him by the board. If the office of chairman of the board is vacant or if another officer is required, the chairman of the board shall possess the power to execute all contracts, bonds, contracts and other instruments of the corporation which may be authorized by the board in his absence or inability to act as the chief executive officer, the chairman of the board shall possess the powers and discharge all the duties of the chief executive officer of the corporation and shall exercise all the powers and discharge all the duties of the chief executive officer of the corporation.

Section C. Vice-Chairman of the Board. The vice-chairman of the board, if designated, shall preside at all meetings of the board of directors and of the shareholders in the absence or inability to act of the chairman of the board. He shall possess the same powers and duties of the chairman of the board in the event of the chairman's absence or inability to act as the chief executive officer, the vice-chairman of the board shall possess the powers and discharge all the duties of the chief executive officer of the corporation and shall exercise all the powers and discharge all the duties of the chief executive officer of the corporation.

Section D. The Chief Executive Officer. The chief executive officer shall have the general and exclusive management of the business, affairs and operations of the corporation in all respects subject to the control of the board of directors. The chief executive officer shall be elected by the board of directors and shall perform such other duties as are customarily incident to such office. The chief executive officer shall see that all directions and resolutions of the board of directors are carried out and shall have authority to determine and direct:

(a) The management, supervision and coordination of all business

(b) The implementation of strategic objectives, the setting of operational policies and material resources;

(c) The management, supervision and coordination of all other executive officers and departments; and

(d) The briefing of the directors at meetings of the board of directors and operations.

The chief executive officer shall have the power to sign and execute all certificates, other instruments of the corporation as authorized by the board of directors, and execution thereof shall be expressly designated by the board of directors or by the board of the corporation.

Section E. The President. The president shall perform such duties as the board of directors shall from time to time specify and other duties incident to the office of president as may be provided in the bylaws. The president shall have the power to sign and execute all certificates, deeds, and other instruments of the corporation as authorized by the board of directors, except execution thereof shall be expressly designated by the board of directors or by the board of the corporation.

Section F. The Vice Presidents. The vice presidents shall possess the same powers and authority as the president to sign certificates, contracts, and other instruments of the corporation which may be authorized where by law the signature of the president is required. All vice presidents shall perform such duties as may be assigned to them by the board of directors, the chairman of the board, and in his absence or disability of the president, and at the request of the chairman of the board or request of the vice-chairman of the board, or in his absence or disability at the request of the president or vice-presidents in the order designated by the chairman of the board, or in his absence or disability of the board, or in his absence or disability by the board of directors, shall perform all of the duties which they shall have all of the powers of and be subject to the restrictions upon the powers of the president or as a chairman of, any standing or special committee of which the president is a member or ex officio.

Section G. The Corporate Secretary. The corporate secretary of the corporation shall:

- (1) Keep the minutes of the meetings of the shareholders and the board of directors for the purpose.
- (2) See that all notices are duly given in accordance with the provisions of the bylaws.

(3) Be custodian of the records and of the seal of the corporation and see to the execution of which on behalf of the corporation under its seal is duly authorized these bylaws.

(4) Keep a register of the post office address of each shareholder, which the corporate secretary at his request by such shareholder, and make all proper changes in such register for all such entries.

(5) See that the books, reports, statements, certificates and all other documents are properly kept, filed, and authenticated.

(6) In general, perform all duties incident to the office of corporate secretary which may from time to time be assigned to him by the board of directors.

Section H. The Treasurer. The treasurer of the corporation shall:

- (1) Give bond for the faithful discharge of his duties if required by the board of directors.

(2) Have the charge and custody of, and be responsible for, all funds and all such funds in the name of the corporation in such banks, trust companies, or other accordance with the provisions of these bylaws.

(3) At all reasonable times, exhibit his books of account and records, and account and records of any corporation a majority of whose stock is owned by the corporation upon application during business hours at the office of this corporation where books and records are kept.

(4) Render a statement of the conditions of the finances of the corporation to the directors, and a full financial report at the annual meeting of the shareholders, if called.

(5) Receive and give receipts for monies due and payable to the corporation.

(6) In general, perform all of the duties incident to the office of treasurer at any time be assigned to him by the board of directors.

(7) All acts affecting the treasurer's duties and responsibilities shall be subject to the corporation's chief financial officer.

Section I. The Controller. The controller of the corporation shall:

(1) Direct the financial closings and the preparation of monthly, quarterly, and annual financial statements and reports to executive and operating management.

(2) Direct the preparation of financial reports required by federal, state and local authorities, and preparation of quarterly and annual financial statements and reports to shareholder, stock exchange, SEC, Commission and other interested parties.

(3) Provide primary contact for the corporation's independent accountants, and represent management to the corporation's domestic and foreign subsidiaries.

(4) Perform and/or direct technical accounting and financial reporting research, and accounting and regulatory standards (e.g., FASB, SEC, EITF, IRS).

(5) Direct the corporation's domestic and foreign tax planning, preparation and filing of tax returns.

(6) In general, perform all of the duties incident to the office of controller at any time be assigned by the board of directors.

(7) In case of absence or disability of the controller, the assistant controller or chief financial officer, shall perform the duties of controller.

(8) All acts affecting the controller's duties and responsibilities shall be subject to the corporation's chief financial officer.

**Article 5
Indemnification**

Section A. Indemnification of Directors and Officers - General. Certain individuals, as specifically defined in Section F of this Article Five.

(1) The corporation shall indemnify an individual made a party to a proceeding in which an officer of the corporation is named as a defendant in connection with a proceeding to

Indiana Business Corporation Law (the "IBCL"), as the same now exist or may here any such amendment permits the corporation to provide broader indemnification rig corporation to provide prior to such amendment).

(2) The termination of a proceeding by judgment, order, settlement, or coi contendere or its equivalent is not, of itself, determinative that the director or officer forth in the IBCL.

(3) To the extent that a director or officer has been wholly successful, on i any proceeding to which he was a party, or in defense of any claim, issue, or matter or officer of the corporation, the corporation shall indemnify the director or officer ag him in connection therewith regardless of whether the director or officer has met the without any action or determination under Section D of this Article Five.

Section B. Advancement of Expenses.

(1) The corporation shall pay for or reimburse the reasonable expenses ir party to a proceeding in advance of final disposition of the proceeding if:

(a) The director or officer furnishes the corporation a written affirm: met the standard of conduct set forth in the IBCL;

(b) The director or officer furnishes the corporation a written under behalf, to repay any advances if it is ultimately determined that he is not entitled to i and

(c) A determination is made that the facts then known to those mal preclude indemnification under the IBCL.

(2) The undertaking required by paragraph (b) of subsection (1) of this Se obligation of the director or officer but need not be secured and may be accepted w make repayment.

Section C. Limitations on Indemnification.

(1) The corporation shall not indemnify a director or officer under Section determination has been made in the specific case that indemnification of the directo because he has met the standard of conduct set forth in the IBCL. Such determinat of the request for indemnification:

(a) By the board of directors by majority vote of a quorum consistir the proceeding;

(b) If a quorum cannot be obtained under paragraph (a) of this sub duly designated by the board of directors (in which designation directors who are pe of two or more directors not at the time parties to the proceeding;

(c) By special legal counsel:

(i) Selected by the board of directors or its committee in the (b) of this subsection; or

(ii) If a quorum of the board of directors cannot be obtained and a committee cannot be designated under paragraph (b) of this subsection, sele

directors (in which selection directors who are parties may participate); or

(d) By the shareholders, but the shares owned by or voted under the control of parties to the proceeding may not be voted on the

determination; provided, however, that following a change of control of the corporation arising out of acts, omissions or events prior to the change of control of the corporation seeking indemnification under this Article Five, such determination shall be made by a person and approved by the board of directors or its committee in the manner described (approval shall not be unreasonably withheld), which counsel has not otherwise performed with similar matters) within the five (5) years preceding its engagement to render services to the corporation or any affiliates (as such term is defined in Rule 405 under the Securities Act of 1933) (whether or not they were affiliates when services were so performed) (if a person has theretofore selected Independent Counsel pursuant to this Section C and such person is approved by the corporation, legal counsel approved by a resolution or resolutions of the corporation prior to a change of control of the corporation shall be deemed to have been selected). Such Independent Counsel shall determine as promptly as practicable whether indemnification would be permitted to be indemnified under applicable law and shall render its written opinion to such effect. In making a determination under this Section C, the special committee referred to above shall determine that indemnification is permissible unless clearly prohibited by applicable provisions of the IBCL. The corporation agrees to pay the reasonable fees and expenses of such Independent Counsel above and to fully indemnify such Independent Counsel against any and all expenses incurred out of or relating to this Article Five or its engagement pursuant hereto.

(2) Authorization of indemnification or an obligation to indemnify and evaluation shall be made as set forth in paragraph (a) above, except that if the determination is made pursuant to Section C(1)(c) above, authorization of indemnification and evaluation shall be made by those entitled under Section C(1)(c) above to select counsel.

(3) Indemnification under this Article Five in connection with a proceeding shall be limited to reasonable expenses incurred in connection with the proceeding.

Section D. Enforceability. The provisions of this Article Five shall be applicable after its adoption, whether such arise out of events, acts, omissions or circumstances subsequent to such adoption, and shall continue as to a person who has ceased to be a director, officer or shareholder of the corporation. This Article Five shall not limit any rights of indemnification then existing or arising out of events, acts, omissions or circumstances existing prior to such repeal or modification, including, without limitation, the right to enforce this Article Five with regard to circumstances occurring or existing prior to such repeal or modification.

Section E. Severability. If this Article Five or any portion hereof shall be in a competent jurisdiction, then the corporation shall nevertheless indemnify each director for liabilities incurred in connection with any proceeding, including an action by or in the permitted by any applicable portion of this Article Five that shall not have been invalid under the Articles and by applicable law.

Section F. Definitions.

As used in this Article, the term:

(1) "Change of control," for purposes of this Article Five, means (a) an acquisition of 30% or more of the corporation's voting shares; (b) a merger in which the shareholders of the corporation own 50 percent (50%) or less of the corporation's (or the ultimate parent corporation) voting shares; (c) shareholder approval of a plan of liquidation or to sell or dispose of substantially all of the assets of the corporation; and (d) if, during any two-(2) year period, directors at the beginning of the period are not nominated by a majority of the directors at the beginning of such period) fail to consent to a change of control. Notwithstanding the foregoing, a change of control shall not be deemed to occur so long as the then outstanding voting securities is acquired by (i) a trustee or other fiduciary of an employee benefit plans maintained by the corporation or any of its subsidiaries or (ii) prior to such acquisition, is owned directly or indirectly by the shareholders of this corporation. Ownership of shares in this corporation immediately prior to such acquisition.

(2) "Corporation" includes Ball Corporation and any domestic or foreign partnership or corporation in a merger or other transaction in which the predecessor's existence continues.

(3) "Director" means an individual who is or was a director of the corporation, is or was serving at the corporation's request as a director, officer, employee, or agent of another foreign or domestic corporation, partnership, limited liability company, employee benefit plan, or other enterprise, whether for profit or not. A director is considered to be a director of the corporation if his duties to the corporation also impose on him the duties of a director of the plan or to participants in or beneficiaries of the plan. Director includes the estate or personal representative of a director.

(4) "Expenses" include attorneys' fees.

(5) "Liability" means the obligation to pay a judgment, settlement, penalty, or reasonable expenses incurred with respect to an employee benefit plan), or reasonable expenses incurred with respect to an employee benefit plan).

(6) "Party" includes an individual who was, is, or is threatened to be made a party to a proceeding.

(7) "Proceeding" means any threatened, pending, or completed action, suit, or proceeding, whether administrative, or investigative and whether formal or informal, except for a proceeding against the corporation or any director, officer, employee or agent thereof (other than the corporation) and not consented to by the corporation.

**Article 6
Corporate Seal**

The corporate seal of the corporation shall be a round, metal disc with the words "Corporate Seal," in the center thereof, so mounted on a raised letters upon paper.

Article 7
Amendment

These bylaws may be altered, added to, amended, or repealed by the board of directors at a regular or special meeting thereof or by the majority of the outstanding shares at a meeting of the election of directors.

Article 8
Adjudication of Certain Disputes

Section A. Forum for Adjudication of Certain Disputes. Consistent with (the "IBCL"), unless the corporation consents in writing to the selection of an alternative forum (the "Alternative Forum Consent"), the circuit or superior courts of the State of Indiana shall be the sole and exclusive forum for the resolution of any and all claims for which a claim may be brought or asserted by or on behalf of, or in the name of the corporation; (b) any action asserted by any director, officer, employee, or agent of the corporation to the corporation or to any shareholder identified in Chapter 35 of the IBCL (IC 23-1-35-I(d)); (c) any action asserting a claim under the corporation's Amended Articles of Incorporation and any amendment or amendments to the corporation's Amended Articles of Incorporation; *provided, however*, that if the circuit or superior courts of the State of Indiana lack subject matter jurisdiction over any such claim, the exclusive forum for such action or proceeding shall be a federal court located within the State of Indiana unless a circuit or superior court of the State of Indiana (or federal court located within the State of Indiana) has dismissed a prior action by the same plaintiff asserting the same claims because of an indispensable party named as a defendant therein. Any person or entity purchasing or acquiring an interest in shares of capital stock of the corporation shall be deemed to have notice of this Article 8. The existence of any prior Alternative Forum Consent shall not act as a bar to the consent right as set forth above in this Section A of Article 8 with respect to any current or future claim.

Section B. Consent to Jurisdiction and Service. If any action the subject of which is covered by Section A of this Article 8 is filed in a court other than a court located within the State of Indiana, the name of any shareholder, such

shareholder shall be deemed to have consented to (a) the personal jurisdiction of the court in the State of Indiana in connection with any action brought in such court to enforce such claim (the "Enforcement Action") and (b) having service of process made upon such shareholder by service upon such shareholder's counsel in the Foreign Action as agent for such shareholder.

OBLIGOR GROUP SUBSIDIARIES OF BALL CORP

June September 30, 2024

The following is a list of Obligor Group subsidiaries of Ball Corporation

Name

Ball Advanced Aluminum Technologies Corp. (f/k/a Neuman USA Ltd.)

Ball Asia Services Limited
Ball Beverage Can Americas Inc. (f/k/a Rexam Beverage Can Americas Inc.)
Ball BP Holding Company (f/k/a Rexam BP Holding Company)
Ball Container LLC
Ball Corporation
Ball Glass Containers, Inc.
Ball Global Business Services Corp.
Ball Holdings LLC
Ball Inc. (f/k/a Rexam Inc.)
Ball Metal Beverage Container Corp.
Ball Metal Container Corporation
Ball Packaging, LLC (f/k/a Ball Packaging Corp., f/k/a Ball Packaging Holdings Corp.)
Ball Pan-European Holdings, LLC (f/k/a Ball Pan-European Holdings, Inc.)
Latas De Aluminio Ball, Inc.
Rexam Beverage Can Company
USC May Verpackungen Holding Inc.

Certification

I, Dan W. Fisher, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Ball Corporation;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or statements made, in light of the circumstances under which such statements were made, not in report;
3. Based on my knowledge, the financial statements, and other financial information included in financial condition, results of operations and cash flows of the registrant as of, and for, the period;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as 15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure supervision, to ensure that material information relating to the registrant, including its others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control supervision, to provide reasonable assurance regarding the reliability of financial reporting for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report;
 - d) Disclosed in this report any change in the registrant's internal control over financial reporting in the recent fiscal quarter (the registrant's fourth quarter in the case of an annual report) that materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation, the registrant's auditors and the audit committee of the registrant's board of directors (or persons) the following:
- a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting that are reasonably likely to adversely affect the registrant's ability to record, process, summarize, and report financial information.
 - b) Any fraud, whether or not material, that involves management or other employees who have a direct or indirect control over financial reporting.

Date: August 1, 2024 October 31, 2024

/s/ Dan W. Fisher
Dan W. Fisher
Chairman and Chief Executive Officer

1

Certification

I, Howard H. Yu, certify that:

- 1. I have reviewed this Quarterly Report on Form 10-Q of Ball Corporation;
- 2. Based on my knowledge, this report does not contain any untrue statement of a material fact or any statement of a material omission, or any statements made, in light of the circumstances under which such statements were made, not in the report;
- 3. Based on my knowledge, the financial statements, and other financial information included in this report fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the period covered by this report;
- 4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining internal control over financial reporting (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rule 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is recorded, processed, summarized and reported within the time periods specified in the applicable securities laws, rules, and regulations; and
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and internal control over financial reporting, as of the end of the period covered by this report, and have caused this report to include a statement of the effectiveness of those controls and procedures and internal control over financial reporting, and the date of the evaluation;
 - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the period covered by this report, including the date of the change, the nature of the change, and the effect of the change on the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation, the registrant's auditors and the audit committee of the registrant's board of directors (or persons) the following:
- a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting that are reasonably likely to adversely affect the registrant's ability to record, process, summarize, and report financial information.
 - b) Any fraud, whether or not material, that involves management or other employees who have a direct or indirect control over financial reporting.

Date: August 1, 2024 October 31, 2024

/s/ Howard H. Yu
Howard H. Yu
Executive Vice President

1

**Certification of Chief Executive Officer
Pursuant to 18 U.S.C. Section 1350
and Rule 13a-14(b) or Rule 15d-14(b)**

My name is Dan W. Fisher and I am the Chairman and Chief Executive Officer of Ball Corporation (the

I hereby certify pursuant to 18 U.S.C. Section 1350 as adopted by Section 906 of the Sarbanes—Oxley Act of 2002, in my

- (1) the Quarterly Report on Form 10-Q for the quarter ended June 30, 2024 September 30, 2024, which the Company has filed with the Securities and Exchange Commission on August 1, 2024 October 31, 2024 ("Report"), fully complies with the requirements of the Securities Exchange Act of 1934 as amended; and
- (2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company as of, and for, the periods presented in the Report.

/s/ Dan W. Fisher
Dan W. Fisher
Chairman and Chief Executive Officer
Ball Corporation

Date: August 1, 2024 October 31, 2024

This certification, which accompanies the Form 10-Q to which it relates, is not deemed filed with the Securities and Exchange Commission or incorporated by reference into any filing of the Company under the Securities Act of 1933, as amended (whether made before or after the date of the Form 10-K), irrespective of any general incorporation by reference in such filing.

A signed original of this written statement required by Section 906, or other document authenticating the signature of the certifying officer, shall be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

**Certification of Chief Financial Officer
Pursuant to 18 U.S.C. Section 1350
and Rule 13a-14(b) or Rule 15d-14(b)**

My name is Howard H. Yu and I am the Executive Vice President and Chief Financial Officer of Ball Co

I hereby certify pursuant to 18 U.S.C. Section 1350 as adopted by Section 906 of the Sarbanes—Oxley Act of 2002, to the best of my knowledge and belief:

- (1) the Quarterly Report on Form 10-Q for the quarter ended **June 30, 2024** **September 30, 2024** filed with the Securities and Exchange Commission on **August 1, 2024** **October 31, 2024** ("Report"), fully complies with the requirements of the Securities Exchange Act of 1934 as amended; and
- (2) the information contained in the Report fairly presents, in all material respects, the financial condition, results of operations and cash flows of the Corporation as of, and for, the periods presented in the Report.

/s/ Howard H. Yu

Howard H. Yu

Executive Vice President and Chief Financial Officer
Ball Corporation

Date: **August 1, 2024** **October 31, 2024**

This certification, which accompanies the Form 10-Q to which it relates, is not deemed filed with the Securities and Exchange Commission and is not incorporated by reference into any filing of the Company under the Securities Act of 1933, as amended (whether made before or after the date of the Form 10-K), irrespective of any general incorporation by reference in such filing.

A signed original of this written statement required by Section 906, or other document authenticating the signature of the signatory, must be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

**SAFE HARBOR STATEMENT UNDER THE PRIVATE SECURITIES
LITIGATION REFORM ACT OF 1995**

In connection with the safe harbor provisions of the Private Securities Litigation Reform Act of 1995 (the Reform Act), the Company hereby certifies that the forward-looking statements made in the company's Form 10-K, 10-Q, 8-K and other periodic reports filed with the SEC, quarterly and annual earnings news releases, quarterly earnings conference calls hosted by the company, the company's Annual Report and in other periodic communications with investors. As time passes, the relevance of the information may change. However, except as required by law, the company undertakes no obligation to publicly update or revise a forward-looking statement, whether as a result of new information, future events, or otherwise. You are advised to consult any further disclosures and cautionary statements regarding the forward-looking information.

Q and 8-K reports and other filings with the SEC. The Reform Act defines forward-looking statements as statements that contain a projection, plan or assumption with regard to, among other things, future revenues, income, earnings, "expects," "anticipates," "estimates," "believes," "targets," "likely," "foresees", "positions" and similar expressions, generally any statements other than statements of historical fact. These forward-looking statements are not guaranteed to place undue reliance upon such statements. Rather, these statements involve estimates, assumptions and uncertainties outside our control, and such statements are therefore qualified in their entirety by reference to the following information in any "Risk Factors" section of our most current Form 10-K, 10-Q or other filings with the SEC), that could cause those expressed or implied in forward-looking statements made by or on behalf of Ball:

- Fluctuation in customer and consumer growth, spending, demand or preferences, and changes in consumer behavior may be longer-term or structural in nature, including any effect on demand for our products as a result of the consumption or altering the package or portion size of certain of our customers' products.
- Customer, competitor or supplier consolidation and potential correspondent supply chain influence.
- Loss of one or more major customers or suppliers or changes to contracts with one or more customers
- Failure to achieve anticipated productivity improvements or cost reductions including those associated with achieving optimal level of maintenance and capital expenditures; and failure to achieve expectations with respect to capital improvements and investment income or cash flow projections.
- Changes in the environment and in climate, including the increasing frequency of severe weather events and floods; virus and disease outbreaks and responses thereto; acts of war, terrorism or other significant events; the catastrophic loss of one of our key manufacturing or operating facilities.
- Financial risks, including inflation and changes in interest rates affecting our debt or our ability to hedge in capital markets or our inability or failure to economically hedge or insure against certain risks or potential volatility of the currencies in the countries in which the company and its joint ventures carry on business; changes in capital availability and our access to financing, including the risk of constraints on financing

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- Competition in each line of business, including with respect to pricing and the possible decrease in demand for our products; development and introductions by our competitors; and technology changes, including the effect of new technologies on our products and competitors.
 - The ability or inability to achieve and protect technological and product extensions or new technologies, including our ability to maintain, develop, and capitalize on competitive technologies for the design and development of our products; legal challenges to the proprietary nature of such technology (or protect any unpatented proprietary knowledge or technology);
 - Ball's ability or inability adapt to fluctuating supply and demand and to have available sufficient processing capacity at our manufacturing locations, in a timely manner, as well as footprint adjustments and other manufacturing changes.
 - Overcapacity or undercapacity of Ball or in the metal container industry generally, and its potential impact on our business.

- Regulatory action or issues, or changes in federal, state, local or international laws, including those including in respect of climate change, pollution, environmental, social and governance (ESG) report used in raw materials or in the manufacturing process, particularly concerning Bisphenol-A (BPA), a chemical used in many types of containers (including certain of those products produced by the company), as well as packaging legislation, or to the effects on health of ingredients or substances in, or attributes of, certain products.
- The effect of any antitrust, intellectual property, consumer, employee or other litigation, investigations or regulatory actions.
- The extent to which sustainability-related opportunities arise and can be capitalized upon.
- The availability and cost of raw materials, commodities, supplies, energy, logistics and natural resources; chain disruptions, widespread ocean and shipping constraints, and our ability or inability to pass costs on to customers, particularly aluminum.
- Changes in senior management; strikes and other labor issues; increases and trends in various employee health care costs incurred in the countries in which Ball has operations; the ability to attract and retain employees; and discount rates used to measure future obligations and expenses of the company's defined benefit pension plans.
- International business and market risks and economic conditions; political and economic instability; regional debt or equity markets; restrictive trade practices of national governments; the imposition of trade sanctions; exchange controls; trade sanctions; and ongoing uncertainties and other effects and actions, both in the U.S. and in other countries.

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- Undertaking successful or unsuccessful acquisitions, divestitures, joint ventures or strategic realignments or strategic realignments on our business relationships, operating results and business generally.
 - The company's ability to protect its information technology network, systems and data and those of its customers and the strength of the company's cyber-security.
 - The timing and extent of regulation or deregulation, or changes to regulations and standards, including interpretation.
 - Changes to unaudited results due to statutory audits of our financial statements or management's reporting.
 - Loss contingencies related to income and other tax matters, including those arising from audits performed by tax authorities.

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