

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

**35-0160610**  
(I.R.S. Employer Identification No.)

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

**80021**  
(Zip Code)

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

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

<u>Class</u>	<u>Trading Symbol</u>	<u>Name of Exchange</u>	<u>Outstanding at <b>July 29, 2024</b> <b>October 28,</b> <b>2024</b></u>
Common Stock, without par value	BALL	NYSE	<b>303,565,423</b> 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

Accelerated filer

Non-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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**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**

(\$ in millions, except per share amounts)	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
<b>Net sales</b>	\$ 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)	—
<b>Earnings before taxes</b>	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
<b>Earnings from continuing operations</b>	159	125	238	253	193	133	431	386
Discontinued operations, net of tax	—	48	3,607	100	6	71	3,613	171
<b>Net earnings</b>	159	173	3,845	353	199	204	4,044	557
Net earnings attributable to noncontrolling interests	1	—	2	3	2	1	4	4
<b>Net earnings attributable to Ball Corporation</b>	\$ 158	\$ 173	\$ 3,843	\$ 350	\$ 197	\$ 203	\$ 4,040	\$ 553

<b>Earnings per share:</b>									
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	
<b>Diluted - continuing operations</b>									
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	
<b>Weighted average shares outstanding: (000s)</b>									
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 Ended June 30,				Three Months Ended September 30,				Nine Months Ended September 30,			
	2024		2023		2024		2023		2024		2023	
	2024	2023	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**

(\$ in millions)	June 30, 2024	December 31, 2023	September 30, 2024	December 31, 2023
<b>Assets</b>				
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
<b>Total assets</b>	<b>\$ 18,961</b>	<b>\$ 19,303</b>	<b>\$ 18,824</b>	<b>\$ 19,303</b>
<b>Liabilities and Equity</b>				
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
<b>Total liabilities</b>	<b>11,978</b>	<b>15,466</b>	<b>12,069</b>	<b>15,466</b>
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)
<b>Total Ball Corporation shareholders' equity</b>	<b>6,913</b>	<b>3,769</b>	<b>6,683</b>	<b>3,769</b>
Noncontrolling interests	70	68	72	68
Total equity	6,983	3,837	6,755	3,837
<b>Total liabilities and equity</b>	<b>\$ 18,961</b>	<b>\$ 19,303</b>	<b>\$ 18,824</b>	<b>\$ 19,303</b>

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
<b>Cash Flows from Operating Activities</b>				
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
<b>Cash Flows from Investing Activities</b>				
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)
<b>Cash Flows from Financing Activities</b>				
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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### **Ball Corporation**

#### **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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#### **Ball Corporation**

#### **Notes to the Unaudited Condensed Consolidated Financial Statements**

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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**Ball Corporation**

**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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**Ball Corporation**

**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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**Ball Corporation**

**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
<b>Net sales</b>								
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
<b>Net sales</b>	<b>\$ 2,959</b>	<b>\$ 3,067</b>	<b>\$ 5,833</b>	<b>\$ 6,048</b>	<b>\$ 3,082</b>	<b>\$ 3,111</b>	<b>\$ 8,915</b>	<b>\$ 9,159</b>
<b>Comparable segment operating earnings</b>								
Beverage packaging, North 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
<b>Reconciling items</b>								
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)	—
<b>Earnings before taxes</b>	<b>\$ 200</b>	<b>\$ 151</b>	<b>\$ 301</b>	<b>\$ 305</b>	<b>\$ 227</b>	<b>\$ 175</b>	<b>\$ 528</b>	<b>\$ 480</b>

(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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**Notes to the Unaudited Condensed Consolidated Financial Statements**

**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
<b>Net sales</b>	\$ —	\$ 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
<b>Discontinued operations, net of tax</b>	<b>\$ —</b>	<b>\$ 48</b>	<b>\$ 3,607</b>	<b>\$ 100</b>	<b>\$ 6</b>	<b>\$ 71</b>	<b>\$ 3,613</b>	<b>\$ 171</b>

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## Ball Corporation

### Notes to the Unaudited Condensed Consolidated Financial Statements

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

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
<b>Provided by (used in)</b>				
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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#### Notes to the Unaudited Condensed Consolidated Financial Statements

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 Liabilities (Current)		Contract Liabilities (Noncurrent)		Contract Liabilities (Current)		Contract Liabilities (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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## Ball Corporation

### Notes to the Unaudited Condensed Consolidated Financial Statements

#### 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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**Ball Corporation**

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

**8. Receivables, Net**

(\$ in millions)	June 30,	December 31,	September	December
	2024	2023	30,	31,
			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
	\$ 2,711	\$ 2,057	\$ 2,655	\$ 2,057

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.



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

## 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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**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:

(\$ in millions)	Balance Sheet Location	June 30, 2024
<b>Operating leases:</b>		
Operating lease ROU asset	Other assets	\$ 328
Current operating lease liabilities	Other current liabilities	79
Noncurrent operating lease liabilities	Other liabilities	257
<b>Finance leases:</b>		
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
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increased by 1.70.7 and 1.20.8 percentage points, respectively, for state and local taxes, Pillar Two 1.51.0 percentage points, respectively, for non-U.S. rate differences and withholding taxes net of credits percentage points, respectively, related to Pillar Two Global Minimum Taxes. for state and local taxes.

The company's effective tax rate was 19.225.7 percent and 20.322.3 percent for the three and six nine respectively. As compared to the statutory U.S. tax rate, the effective tax rate for the three and six nine increased by 3.3 and 0.6 percentage points, respectively, for items related to share-based compens respectively, for Global Intangible Low-Taxed Income, increased by 1.0 and 0.8 percentage points, res and 0.7 percentage points, respectively, for other U.S. permanent differences and decreased by 1.92.9 U.S. rate differences and withholding taxes net of credits and decreased by 0.8 and 0.9 percentage compensation. credits.

**17. Employee Benefit Obligations**

(\$ in millions)	June 30, 2024
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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**Notes to the Unaudited Condensed Consolidated Financial Statements**

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

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

(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
<b>Settlement losses and other charges</b>						
<b>(a)</b>						
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 31 and income of \$2 million \$3 million and \$16 million \$23 million for the six nine months ended June 30, included in selling, general and administrative in the unaudited condensed consolidated statements of e

Contributions to the company's defined benefit pension plans were \$15 million \$24 million for the first 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 performar 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 di transaction allows the company to reduce volatility by removing investment, longevity, mortality, ii substantially all of the pension plan assets to the insurer in exchange for the group annuity insurance fair value of the annuity contract within plan assets and the pension benefit obligations related to these and future service accruals were replaced with enhanced defined contribution benefits for the impacter may occur within two three years of the plan freeze, which will trigger a pension settlement that wil pension components within other comprehensive income, being charged to expense as a noncash sett

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### Notes to the Unaudited Condensed Consolidated Financial Statements

#### 18. Equity and Accumulated Other Comprehensive Earnings (Loss)

The following tables provide additional details of the company's equity activity, inclusive of activity company's equity:

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

<b>Balance at March 31, 2024</b>	683,560	\$ 1,352	(370,544)	\$(4,537)	\$ 11,386	\$	(893)	\$
<b>Balance at June 30, 2024</b>								
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)	—	—	—
<b>Balance at June 30, 2024</b>	<b>683,801</b>	<b>\$ 1,370</b>	<b>(377,841)</b>	<b>\$(5,017)</b>	<b>\$ 11,481</b>	<b>\$</b>	<b>(921)</b>	<b>\$</b>

**Balance at September 30, 2024**

	Common Stock		Treasury Stock		Retained Earnings	Accumulated Other Comprehensive Earnings (Loss)		Noncontrolling Interests
	Number of Shares	Amount	Number of Shares	Amount		Earnings	Earnings (Loss)	

<b>Balance at March 31, 2023</b>	682,416	\$ 1,268	(367,929)	\$(4,414)	\$ 7,422	\$	(637)	\$
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**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	—	—	—
<b>Balance at June 30, 2023</b>	<b>682,728</b>	<b>\$ 1,291</b>	<b>(367,793)</b>	<b>\$(4,406)</b>	<b>\$ 7,533</b>	<b>\$</b>	<b>(582)</b>	<b>\$</b>

**Balance at September 30, 2023**

	Common Stock		Treasury Stock		Retained Earnings	Accumulated Other Comprehensive Earnings (Loss)		Noncontrolling Interests
	Number of Shares	Amount	Number of Shares	Amount		Earnings	Earnings (Loss)	

<b>Balance at December 31, 2023</b>	683,241	\$ 1,312	(367,551)	\$(4,390)	\$ 7,763	\$	(916)	\$
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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	—	—	—	—

	683,801	\$ 1,370	(377,841)	\$(5,017)	\$ 11,481	\$(921)	\$
<b>Balance at June 30, 2024</b>							
<b>Balance at September 30, 2024</b>							
	Common Stock		Treasury Stock		Retained	Accumulated Other	Noncon
	Number of		Number of		Earnings	Comprehensive	Noncon
(\$ in millions; share amounts in thousands)	Shares	Amount	Shares	Amount	Earnings	Earnings (Loss)	Inter
<b>Balance at December 31, 2022</b>	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	—	—	—
<b>Balance at June 30, 2023</b>	682,728	\$ 1,291	(367,793)	\$(4,406)	\$ 7,533	\$(582)	\$
<b>Balance at September 30, 2023</b>							

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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:

	Currency	Pension and	Derivatives	Accumulated	Cu
	Translation	Other	Designated	Other	Tra
(\$ in millions)	(Net of Tax)	Postretirement Benefits (Net of Tax)	as Hedges (Net of Tax)	Comprehensive Earnings (Loss)	(0
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	
<b>Balance at June 30, 2024</b>	<b>\$ (519)</b>	<b>\$ (427)</b>	<b>\$ 25</b>	<b>\$(921)</b>	<b>\$</b>
<b>Balance at September 30, 2024</b>					<b>\$</b>

(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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**Ball Corporation**

**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 Jun	
	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, 21** 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 managerer 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 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,

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**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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**Ball Corporation**

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

**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 in foreign entities. 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:

Commercial risk area	June 30, 2024		
	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 directly to 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 of 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 with a notional value of \$1.4 billion through 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 and cash flows.

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**Ball Corporation**

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

**Fair Value Measurements**

Ball has classified all applicable financial derivative assets and liabilities as Level 2 within the fair value hierarchy as of June 30, 2024, 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.

(\$ in millions)	Balance Sheet Location	June 30, 2024		Total
		Derivatives Designated as Hedging Instruments	Derivatives not Designated as Hedging Instruments	
<b>Assets:</b>				
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	\$ —	\$
<b>Liabilities:</b>				
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 liabilities	noncurrent	\$ 1	\$ —	\$

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**Ball Corporation**

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

(\$ in millions)	Balance Sheet Location	December	
		Derivatives Designated as Hedging Instruments	Derivatives Designated as Hedging Instruments
<b>Assets:</b>			
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	\$
<b>Liabilities:</b>			
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 option provider 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 on a quarterly basis. **2024 September 30, 2024**, has not identified any circumstances requiring the reported values of the company's derivative contracts to be adjusted.

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**Ball Corporation**
**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 Amount from Accumulated	Gain (Loss) on Derivatives not Designated as Other	Cash Flow Hedge - Reclassified 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	Location Recognized in Earnings	
(\$ in millions)						
Commodity contracts - manage exposure to customer pricing	Net sales	\$ (19)	\$ —	\$ 24	\$ —	Net sales
Commodity contracts - manage exposure to supplier pricing	Cost of sales	4	(9)	(16)	6	Cost of sales
Interest rate contracts - manage exposure for outstanding debt	Interest expense	3	—	2	—	Interest expense
Currency contracts - manage currency exposure	Selling, general and administrative	16	29	6	(1)	Selling, general and administrative
Equity contracts	Selling, general and administrative	—	(11)	—	7	Selling, general and administrative
<b>Total</b>		<b>\$ 4</b>	<b>\$ 9</b>	<b>\$ 16</b>	<b>\$ 12</b>	

		Six Months Ended June 30,				Location of Gain (Loss) Recognized in Earnings
		2024		2023		
(\$ in millions)	Location of Gain (Loss) Recognized in Earnings	Cash Flow Hedge - Reclassified		Cash Flow Hedge - Reclassified		Other
		Amount from Accumulated	Gain (Loss) on Derivatives not Designated as Hedge Instruments	Amount from Accumulated	Gain (Loss) on Derivatives not Designated as Hedge Instruments	
Commodity contracts - manage exposure to customer pricing	Net sales	\$ (6)	\$ —	\$ 11	\$ —	Net sales
Commodity contracts - manage exposure to supplier pricing	Cost of sales	(10)	(6)	(16)	(1)	Cost of sales
Interest rate contracts - manage exposure for outstanding debt	Interest expense	6	—	2	(5)	Interest expense
Currency contracts - manage currency exposure	Selling, general and administrative	48	56	3	(2)	Selling, general and administrative
Equity contracts	Selling, general and administrative	—	3	—	15	Selling, general and administrative
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 Months
	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 our 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 personal injury; the use and performance of company products; warranty matters; patent, trademark or copyright matters; liability; the conduct of the company's business; tax reporting in domestic and non-U.S. jurisdiction matters. The company has also been identified as a potentially responsible party (PRP) at several sites under various environmental statutes and regulations and may have joint and several liability for any investigation or remediation at these 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 those involving 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 maintains various forms of insurance; however, such insurance may not be applicable or adequate to cover the full extent of the potential liabilities from these lawsuits, claims and proceedings. The company estimates that potential liabilities from these 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** and **September 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 in the U.S. District Court for the Southern District of Ohio seeking a declaratory judgment that the CDL beverage containers infringe certain U.S. patents held by Crown. In response, Crown filed a counterclaim alleging that the CDL beverage containers infringe Crown's patents and seeking damages. On September 25, 2019, the District Court granted BMBCC's motion for summary judgment and ruled that the CDL beverage containers' 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 the remand, the District Court again granted summary judgment to Ball finding that patent claims at issue are invalid under the framework specified by the CAFC. On August 4, 2023, Crown appealed this decision to the CAFC. Briefing is complete and oral argument is expected to be scheduled during 2024 with a decision to follow. Based on the information available at the present time, we are unable to predict the ultimate outcome of this claim including the amount of any reasonably possible 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. These indemnifications may be required to make payments in relation to certain transactions. These indemnifications 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 under a purchase agreement, construction contract, renewable energy purchase contract or other types of agreements; indemnities for liabilities associated with the infringement of third-party intellectual property rights; indemnities to various lessors in connection with facility, equipment, furniture and other assets 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, in certain cases, is indefinite.

In addition, many of these indemnities, commitments and guarantees do not provide for any limitation on the amount of damages 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, commitments and guarantees, if both reasonably estimable and probable. Finally, the company carries specific and general liability insurance from third-party purchasers, sellers and other contracting parties in certain circumstances, provide recourse to certain claims arising from these indemnifications, commitments and guarantees.

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**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, the obligations of non-U.S. subsidiaries under the senior credit facilities, the obligations of the company guaranteed on a full, unconditional and joint and several basis by certain of the company's 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, the senior notes and senior credit facilities referred to above, are coterminous with the term of the indentures, senior notes and credit agreement, and they could be enforced by the holders of the senior notes and credit agreement.

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 ANI**

*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 oi 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 ; 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 and diversified customer base, we sell a significant portion of our packaging products to major companies. 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 particular other direct cost inputs. We mitigate our exposure to the changes in the costs of aluminum through the majority of our volumes to pass through aluminum price changes, as well as through the use of contracts. Changes generally result in proportional increases or decreases in sales and costs with a greatly reduced impact and timing differences of when the costs are passed through. Because of our customer and supplier concentration, our operations could be adversely affected by the loss, insolvency or bankruptcy of a major customer or major customer or supplier, although our contract provisions generally mitigate the risk of customer concentration, stable customer base.

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

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## RESULTS OF CONSOLIDATED OPERATIONS

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

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

### Global Economic Environment

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

Net earnings attributable to Ball Corporation	158	173	3,843	350	19
Net earnings attributable to Ball Corporation as a % of net sales	5 %	6 %	66 %	6 %	

Sales in the three months ended **June 30, 2024** **September 30, 2024**, decreased **\$108 million** **\$29 million** due to a decrease of **\$17 million** from price/mix. Sales in the nine months ended **September 30, 2024** period in 2023 primarily due to decreases of **\$69 million** from lower sales prices **\$232 million** rest **million** **\$70 million** from lost volumes as a result of the 2023 fire at the company's Verona, Virginia extruded aluminum slug manufacturing facility. Sales in the six months ended **June 30, 2024**, decreased **\$215 million** compared to the same period in 2023 primarily due to a decrease of **\$197 million** **\$33 million** from lower sales prices resulting mainly from lower aluminum prices. Sales in the six months ended **June 30, 2024** period in 2023 primarily due to decreases of **\$69 million** from lower sales prices **\$232 million** rest **million** **\$70 million** from lost volumes as a result of the 2023 fire at the company's Verona, Virginia extruded aluminum slug manufacturing facility. **higher volume**

Net earnings attributable to Ball Corporation for the three months ended **June 30, 2024** **September 30, 2024**, the same period in 2023 primarily due to an increase in costs of **\$66 million** from business consolidation **million** **\$65 million** from lower discontinued operations, net of tax and an increase in costs of **\$56 million** partially offset by increases of **\$57 million** **\$55 million** from lower interest expense and **\$49 million** from below and **\$48 million** from lower interest expense. Net earnings attributable to Ball Corporation for the **three months ended June 30, 2024**, increased **\$3.49 billion** compared to the same period in 2023 primarily due to increases of **\$3 million** net of tax, **\$83 million** **\$132 million** from the results of the reportable segments discussed below, **\$68 million** **\$29 million** **\$36 million** from higher interest income in corporate undistributed expenses, net, partial business consolidation and other activities and **\$82 million** from incremental compensation cost from **\$72 million** from business consolidation and other activities.

When analyzing net earnings attributable to Ball Corporation as a percentage of net sales, it is important to note that Ball Corporation includes discontinued operations, net of tax resulting from the net sales attributable to the date of the divestiture on February 16, 2024, that are now reported as discontinued operations. However, these discontinued operations are not included in the net sales figures in the table above.

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### *Cost of Sales (Excluding Depreciation and Amortization)*

Cost of sales, excluding depreciation and amortization, was **\$2,357 million** **\$2,425 million** and **\$2,506 million** for the **three months ended June 30, 2024** **September 30, 2024** and 2023, respectively, and **\$4,640 million** **\$7,065 million** and **\$4,938 million** for the **nine months ended June 30, 2024** **September 30, 2024** and 2023, respectively. These amounts represented **80 79 percent** of net sales for the **three months ended June 30, 2024** **September 30, 2024** and 2023, respectively, and **80 79 percent** of net sales for the **six nine months ended June 30, 2024** **September 30, 2024** and 2023, respectively. The decrease for the **three months ended June 30, 2024**, was primarily due to lower manufacturing costs, including lower aluminum costs of **\$106 million** from the **three months ended June 30, 2024** reportable segment sections below. The decrease for the **six nine months ended June 30, 2024** was primarily due to lower manufacturing costs, including lower aluminum costs of **\$228 million** **\$269 million** and lower freight costs of **\$106 million** from the **six nine months ended June 30, 2024** reportable segment sections below.

### *Depreciation and Amortization*

Depreciation and amortization expense was **\$152 million** **\$150 million** and **\$150 million** **\$152 million** for the **three months ended June 30, 2024** **September 30, 2024** and 2023, respectively, and **\$310 million** **\$460 million** and **\$297 million** **\$449 million** for the **nine months ended June 30, 2024** **September 30, 2024** and 2023, respectively. These amounts represented 5 percent of consolidated net sales for the **three months ended June 30, 2024** **September 30, 2024** and 2023, respectively, and 5 percent of consolidated net sales for the **nine months ended June 30, 2024** **September 30, 2024** and 2023, respectively.



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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, with a higher percentage of principal 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 and 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 and September 30, 2024, respectively, was primarily due to rate differences and withholding taxes net of credits, increased tax benefits from state and local taxes, and the impact of the new tax law. Similar impacts may occur in future periods, but given their inherent uncertainty, the company is unable to estimate their impact.

**RESULTS OF BUSINESS SEGMENTS**

***Segment Results***

Ball's operations are organized and reviewed by management along its product lines and geographical areas into 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 North Las Vegas 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 and September 30, 2024, were \$169 million and \$169 million lower, respectively, compared to the same periods in 2023. Segment sales for the three and six months ended June 30, 2024 and September 30, 2024, were primarily due to a \$77 million decrease in sales prices resulting mainly from lower aluminum prices and \$37 million from higher volumes. The decrease for the six months ended June 30, 2024, was primarily due to a \$77 million decrease in sales prices resulting mainly from lower aluminum prices and \$37 million from higher volumes. The decrease for the six months ended September 30, 2024, was primarily due to a \$77 million decrease in sales prices resulting mainly from lower aluminum prices and \$37 million from higher 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 from price/mix and \$16 million from lower costs, and \$11 million partially offset by higher lower volumes. The increase for the six nine months ended June 30, 2024, was primarily from price/mix and \$50 million from lower costs, resulting mainly from the annual pass-through of inflationary costs net of current year 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 l

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*Beverage Packaging, EMEA*

(\$ in millions)	Three Months Ended June 30,		Six Months Ended June 30,		Three Months Ended
	2024	2023	2024	2023	2024
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 \$44 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 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 volumes. The increase for the six months ended June 30, 2024, was primarily due to higher sales prices resulting mainly \$32 million from price/mix and \$14 million \$19 million from higher volumes, partially offset by a decrease of \$4 million from higher costs. The increase for the six months ended June 30, 2024, was primarily due to higher sales prices resulting mainly \$32 million from price/mix and \$14 million \$19 million from higher volumes, partially offset by a decrease of \$4 million from higher costs.

*Beverage Packaging, South America*

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

Comparable operating earnings as a % of segment net sales	9 %	7 %	10 %	9 %	16
-----------------------------------------------------------	-----	-----	------	-----	----

Ball permanently ceased production at its aluminum beverage can manufacturing facility in Pouso Aleg

Segment sales for the three and six nine months ended June 30, 2024 September 30, 2024, were \$1 million higher, respectively, compared to the same periods in 2023. The increase decrease for the three was primarily due to a decrease of \$23 million from lower volumes, partially offset by an increase mainly \$18 million from price/mix partially offset by a decrease of \$12 million from lower volumes, and for months ended June 30, 2024 September 30, 2024, was primarily due to increases of \$36 million \$31 volumes and \$27 million from higher sales prices resulting mainly from price/mix. volumes.

Comparable operating earnings for the three and six nine months ended June 30, 2024 September 30, 2024, were \$29 million higher, respectively, compared to the same periods in 2023. The increase increase 2024 September 30, 2024, was were primarily due to higher sales prices resulting mainly increases from June 30, 2024, was primarily due to an increase of \$17 million from higher volumes, partially offset by a

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*Management Performance Measures*

Management internally uses various measures to evaluate company performance such as comparable net earnings (net operating earnings after tax and business consolidation and other non-comparable items); comparable net earnings (net operating earnings after tax and business consolidation and other non-comparable items after tax); comparable diluted earnings per share (net operating earnings after tax and business consolidation and other non-comparable items after tax divided by weighted average shares outstanding); return on average invested capital (net operating earnings after tax and business consolidation and other non-comparable items after tax divided by average invested capital over the same period); economic value added (EVA®) dollars (net operating earnings after tax and business consolidation and other non-comparable items after tax multiplied by average invested capital employed); earnings before interest expense, taxes, depreciation and amortization (EBITDA) (net operating earnings after tax and business consolidation and other non-comparable items after tax plus depreciation and amortization); free cash flow (cash flows from operating activities less capital expenditures that affect comparability between periods) and adjusted free cash flow (free cash flow adjusted for the aerospace disposition and other material dispositions) as a measure to evaluate the company's performance. Management uses operating cash flows, free cash flow (cash flows from operating activities less capital expenditures that affect comparability between periods) and adjusted free cash flow (free cash flow adjusted for the aerospace disposition and other material dispositions) as a measure to evaluate the company's performance. Management uses operating cash flows, free cash flow (cash flows from operating activities less capital expenditures that affect comparability between periods) and adjusted free cash flow (free cash flow adjusted for the aerospace disposition and other material dispositions) as a measure to evaluate the company's performance. Management uses operating cash flows, free cash flow (cash flows from operating activities less capital expenditures that affect comparability between periods) and adjusted free cash flow (free cash flow adjusted for the aerospace disposition and other material dispositions) as a measure to evaluate the company's performance. Management uses operating cash flows, free cash flow (cash flows from operating activities less capital expenditures that affect comparability between periods) and adjusted free cash flow (free cash flow adjusted for the aerospace disposition and other material dispositions) as a measure to evaluate the company's performance.

Nonfinancial measures used in the packaging businesses include production efficiency and spoilage and safety statistics; production and sales volume data; asset utilization rates and measures of sustainable units shipped.

Many of the above noted financial measurements are presented on a non-U.S. GAAP basis and should not be considered superior to, or a substitute for, financial measures calculated in accordance with U.S. GAAP. A presentation of these measures is available in [Item 1](#) of this report.

**NEW ACCOUNTING PRONOUNCEMENTS**

For information regarding recent accounting pronouncements, see [Note 2](#) to the consolidated financial statements included in this report.

**FINANCIAL CONDITION, LIQUIDITY AND CAPITAL RESOURCES**

### Cash Flows and Capital Expenditures

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

(\$ in millions)	Six Months
	2024
Cash flows provided by (used in) operating activities	\$ (95)
Cash flows provided by (used in) investing activities	5,200
Cash flows provided by (used in) financing activities	(3,400)

Cash flows from the historical aerospace reportable segment are presented within each cash flow statement cash flows. Depreciation and amortization, capital expenditures and significant operating and investing activities 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 cash outflows of accounts receivable factoring by \$749 million as a result of having significant cash on hand as of June 30, 2024. On September 16, 2024, the company completed the divestiture of the aerospace business. We currently estimate a cash outflow from operations in 2024, of which \$461 million \$484 million has been paid as of June 30, 2024. For further details. In an elevated interest rate environment, payment terms with our customers and vendor information used to negotiate our contract terms. At June 30, 2024 September 30, 2024, days sales outstanding was 116 days; therefore, a change of one day in days sales outstanding will impact cash flows provided by (used in) operating activities by \$26 million \$27 million. At June 30, 2024 September 30, 2024, days payable outstanding was 117 days; therefore, a change of one day in days payable outstanding will impact cash flows provided by (used in) operating activities by \$26 million \$27 million. At June 30, 2024 September 30, 2024, days inventory outstanding was 117 days; therefore, a change of one day in days inventory outstanding will impact cash flows provided by (used in) operating activities by \$26 million \$27 million.

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

Cash flows used in financing activities were \$3.50 billion \$4.00 billion in 2024, primarily driven by net proceeds from the issuance 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 programs to finance our accounts receivable. The programs are accounted for as true sales of the receivables, with limited recourse. As of June 30, 2024 September 30, 2024 and December 31, 2023, approximately \$1.59 billion \$1.63 billion and \$2.00 billion 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 \$1.00 billion with receivable factoring programs included within the historical aerospace reportable segment. The cash flows from these programs of \$10 million \$12 million and \$25 million \$29 million for the three months ended June 30, 2024 September 30, 2024 and December 31, 2023, respectively.

\$23 million \$35 million and \$40 million \$69 million for the six nine months ended June 30, 2024 Sep presented these amounts in selling, general and administrative in its unaudited condensed consolidated

The company has several regional supplier finance programs with various financial institutions that company. The amount of obligations outstanding that the company confirmed as valid to the financial i million \$432 million and \$703 million at June 30, 2024 September 30, 2024 and December 31, 2023, re whether the suppliers participate in the supplier finance programs or if the suppliers decide to fa therefore, we do not believe that future changes in the availability of supplier finance programs will hav

Contributions to the company's defined benefit pension plans were \$15 million \$24 million in the first million in the same period of 2023, and such contributions are expected to be approximately \$28 millio may change based on changes in the Pension Protection Act, actual plan asset performance and avail

The company expects that 2024 capital expenditures for property, plant and equipment will likely be million \$167 million of capital expenditures for property, plant and equipment were contractually comm the company intends to return approximately \$245 million to shareholders in the form of dividends for th cents per share, payable September 17, 2024 December 16, 2024, to shareholders of record as of Sep

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As of June 30, 2024 September 30, 2024, approximately \$675 million \$820 million of our cash was held to utilize any of the cash held outside of the U.S. for purposes within the U.S., there are no materia repatriation of cash from any of the countries outside the U.S. where we have cash. The company belie as well as availability under its long-term, revolving credit facilities, uncommitted short-term credit f receivable factoring programs, will be sufficient to meet the cash requirements of the U.S. portion i interest payments on U.S. debt, dividend payments, capital expenditures and other U.S. cash requirem requirements and we are unable to provide the funds through intercompany financing arrangements, w locations where the company has previously asserted indefinite reinvestment of funds outside the U.S.

Based on its indefinite reinvestment assertion, the company has not provided deferred taxes on earn earnings are intended to be indefinitely reinvested in its international operations. It is not practical i payable if these earnings were remitted to the U.S.

#### *Share Repurchases*

The company's share repurchases totaled \$665 million \$1.06 billion during the six nine months ended i million of repurchases during the same period of 2023. The repurchases were completed using ca proceeds from the sale of businesses and available borrowings. The company plans to continue capita in share repurchases in 2024 using cash from the aerospace divestiture and operating activities.

On April 24, 2024, Ball's Board of Directors approved the repurchase by the company of up to a t repurchase authorization replaced all previous authorizations.

#### *Debt Facilities and Refinancing*

Given our cash flow projections and unused credit facilities that are available until June 2027, our liq cash and debt service requirements. Total interest-bearing debt of \$5.83 billion \$5.82 billion and \$8.62 30, 2024, and December 31, 2023, respectively.

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 to 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. We are required to maintain a leverage ratio (as defined) of no greater than 5.0 times, which will change to 4.5 times on **September 30, 2024**. At **September 30, 2024**, the company could borrow an additional **\$2.34 billion** **\$2.39 billion** under its revolving credit facilities and short-term uncommitted credit facilities. Additional details about our debt are available in our financial statements within [Item 1](#) of this report. In July 2024, we entered into and designated two net investment 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 our 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 are not material to the company's 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** and **September 30, 2024**. Intercompany transactions, equity investments and other intercompany activity between obligor group companies are summarized in the supplemental financial information. Investments in subsidiaries not forming part of the obligor group are summarized in the supplemental financial information. Investments in subsidiaries not forming part of the obligor group are summarized in the supplemental 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 **January 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** and **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** and **\$272 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, net sales to 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** and dividends from other subsidiary companies of **\$38 million** and **\$814 million**, during the **six nine months** and the year ended December 31, 2023, respectively.

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

Included in the amounts disclosed in the table above, at **June 30, 2024** **September 30, 2024**, and **December 31, 2023**, are due from other subsidiary companies of **\$487 million** **\$472 million** and **\$768 million**, respectively, for 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 7](#)

### Item 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

The company employs established risk management policies and procedures which seek to reduce the 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, th 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 manager Additionally, in the event of default under the company's master derivative agreements, the non-default with regard to open derivative positions. Further details are available in Item 7A within Ball's 2023 Ann and in [Note 20](#) accompanying the consolidated financial statements included within [Item 1](#) of this repor

### Item 4. CONTROLS AND PROCEDURES

Our chief executive officer and chief financial officer participated in management's evaluation of our di Securities and Exchange Commission (SEC), as of the end of the period covered by this report an effective. There were no changes to internal controls during the company's [second third](#) quarter of 21 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. "believes," and similar expressions typically identify forward looking statements, which are generally an Such statements are based on current expectations or views of the future and are subject to risks an events to differ materially from those expressed or implied. You should therefore not place undue relie should be read in conjunction with, and qualified in their entirety by, the cautionary statements referer update or revise any forward-looking statements, whether as a result of new information, future even that could cause actual outcomes and results to be different are summarized in filings with the Securit in Ball's Form 10-K, which are available on Ball's website and at [www.sec.gov](#). Additional factors tha product capacity, supply, and demand constraints and fluctuations and changes in consumption patter logistics; competitive packaging, pricing and substitution; changes in climate and weather and related e tornadoes and floods; footprint adjustments and other manufacturing changes, including the [startup ope](#) achieve synergies, productivity improvements or cost reductions; unfavorable mandatory deposit or pi power and supply chain interruptions; changes in major customer or supplier contracts or loss of a r increased costs; war, political instability and sanctions, including relating to the situation in Russia and ability to operate in Europe, the Middle East and Africa regions generally; changes in foreign excha governmental actions, including business restrictions and orders affecting goods produced by Ball or i and b) Ball as a whole include those listed above plus: the extent to which sustainability-related opportu senior management, succession, and the ability to attract and retain skilled labor; regulatory actions or social and governance reporting, competition, environmental, health and workplace safety, including U public concerns affecting products filled in Ball's containers, or chemicals or substances used i technological developments and innovations; the ability to manage cyber threats; litigation; strikes; dis of return on assets of Ball's defined benefit retirement plans; pension changes; uncertainties surrou including policies, orders, and actions related to COVID-19; [policies](#); reduced cash flow; interest rates ; ventures, acquisitions and divestitures, and their effects on Ball's operating results and business gener:

## 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**. On February 16, 2024, the risk factors related to the aerospace business are n

### 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 thir**

	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)
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 **were** 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 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 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; 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  
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") an 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 Company and its Subsidiary, Ball Aerospace & Technologies Corp., a Delaware corporation (the "Company") and (b) the consummation of the pre-Closing reorganization contemplated by Section 6.18; provided, however, that such term shall not include any entity that is not a limited liability company ("TI LLC") and Ball Topaz Environmental Intelligence, LLC, a Delaware corporation 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, exercises or has the power to exercise control over such Person, whether through ownership, 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 Company and of 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.

"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 Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, and any other applicable law, regulation or requirement applicable to any Acquired Company or the Business from time to time.

“Antitrust Laws” shall mean any Legal Requirements applicable to 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 ERISA, whether or not subject to ERISA, (b) benefit or compensation plan, policy, program, including any equity, equity-based, retirement, profit sharing, bonus, commission, or other benefit plan, in control, retention, transaction-based compensation, deferred compensation, tax deferral, time off, medical, dental, life or disability plan, program, policy or arrangement or (c) any similar individual agreement, plan, policy, arrangement or program, in each case as defined in 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

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

“Business” shall mean the business of designing, developing, manufacturing, testing, marketing, selling, distributing, installing, maintaining, repairing, and providing products, equipment, parts and components and providing services used in the defense, intelligence, reconnaissance, civil, commercial and national security aerospace markets and related industries, including (a) the design, development, production and manufacture of space systems and components, national defense hardware, antenna and video systems, satellite systems, space hardware, data exploitation solutions, advanced technologies and products, climate change monitoring as well as deep space missions and other advanced technologies, (b) the design, development, production and manufacture of the solutions, products and services provided by the national defense, tactical operations, intelligence, reconnaissance, civil, commercial and national security aerospace technology and information solutions divisions of Seller, (c) the provision of space systems and components, national defense hardware, antenna and video systems, satellite systems, space hardware, data exploitation solutions, advanced technologies and products, climate change monitoring as well as deep space missions and other advanced technologies, (d) all other business activities of the Acquired Companies, as conducted by the Acquired Companies, the Seller or its other Affiliates, from and after the Closing, as applicable.

“Business Day” shall mean any day other than (a) a Saturday or a Sunday, or (b) a day on which 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 Plan for the Employees of Ball Aerospace & Technologies Corp.

“Business Systems” shall mean all Software, computer hardware (including servers, networks, interfaces, platforms, equipment, servers, peripherals and systems), and related 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 United States or any successor thereof, 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.

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“CFIUS Clearance” shall mean that: (a) the parties have received CFIUS Clearance and 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 (b) a voluntary notice submitted by the parties has concluded, and CFIUS has determined that there are no security concerns with respect to the Transactions, and advised that all action 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 and CFIUS Authorities during which the President may announce a decision to take action to suspend, prohibit or place any 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 Agreements 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 Seller and Purchaser in 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 Seller for 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 other consolidated tax return of Seller or any of its Controlled Affiliates (other than the Acquired Companies), on the one hand, or any of the Acquired Companies, on the other hand.

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“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 COVID-19) and any associated public health emergency, epidemic, pandemic or outbreak, or any 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 Governmental Authority, including (a) the U.S. International Trade Administration Regulations, the U.S. International Traffic in Arms Regulations, the U.S. Customs and Border Protection; (b) the anti-dumping and countervailing duty programs administered by U.S. Customs and Border Protection; and (c) any other similar export trade programs or Legal Requirements in any relevant jurisdiction to the extent applicable to the Business.

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

“Cybersecurity Measures” shall mean (a) any regulations promulgated by any Governmental Authority relating to cybersecurity, cybercrime, cyberterrorism, ransomware, malware, privacy or the protection of Personal Information, and (b) any measures, changes in business operations or other practices, affirmative or negative, implemented by Seller or any of its Controlled Affiliates.

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Company in response to a cybersecurity attack, breach or incident, for the protection of Personal Information or data stored information.

“Data Protection Laws” shall mean all applicable Legal Requirements promulgated by any Governmental Authority in any jurisdiction in which any Acquired Company, Seller or any of its Controlled Affiliates, conducts business relating to the processing or protection of Personal Information.

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

“DCSA” shall mean the Defense Counterintelligence and Security Agency.

“DCSA Approval” shall mean (a) receipt by the parties of written acknowledgment from DCSA that it has accepted a foreign ownership, control or influence mitigation plan submitted by Seller or Purchaser or (b) the entry into a written commitment notice or commitment letter executed by DCSA to mitigate the foreign ownership, control or influence over the Business resulting from the transactions contemplated by this Agreement.

“Debt Commitment Letter” shall mean an executed commitment letter or agreement, dated as of the date hereof, from the Debt Financing Sources party to the Agreement.

“Debt Financing” shall mean the debt financing committed to be provided by the Debt Financing Sources pursuant to the Debt Commitment Letter or other agreements entered into in connection with the Debt Financing Sources, for purposes of the Agreement set forth therein with respect to each such Debt Financing Source.

“Debt Financing Sources” shall mean the Persons that have committed to provide debt financing in connection with any Debt Financing or alternative debt financing, including the parties named in the Debt Commitment Letter and any joint or several debt agreements 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.

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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 Business or the Acquired Company, relating to air quality, water pollution, public or worker health or safety (as it relates to exposure to Hazardous Materials, Hazardous Waste, or Hazardous Air Pollutants), or the environment or natural resources, including the use, handling, transportation, treatment, storage, disposal, or 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 as a relevant Person 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 Agreement or 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 this Agreement or the Closing Date, as applicable, employed by Seller or one of the Acquired Companies (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, as set forth in the warranties in Article IV 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, it shall include any cause of action based on constructive or imputed knowledge, equitable estoppel, recklessness 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, 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 (a Contract) above (in each case of the foregoing, other than any Real Property Lease).

“Governmental Authority” shall mean any United States federal, state or local government, political subdivision, governmental agency, or instrumentality.

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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 polybrominated 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 applicable laws, regulations, or contracts.



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.

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“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

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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 req 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 £

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“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 pu 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 Le

“Permitted Encumbrances” shall mean (a) Encumbrances for Taxe 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' co other types of social security, (d) defects or imperfections of title, easements, c 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 i codes and other generally applicable land use and environmental restrictions Governmental Authority having jurisdiction over such Real Property which are not current use or occupancy of such Real Property or the operation of

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the Business thereon, (f) Encumbrances imposed on the underlying fee interest (c property leased or subleased by any Acquired Company or over which any Acq similar property rights, (g) Encumbrances incurred in the ordinary course of busi Sheet securing liabilities that are not material to the Business, taken as a whole, (h or resulting from this Agreement or the other Transaction Agreements, (i) Encumbi any Acquired Company that are discharged or released at or prior to the Closing, ( 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 the capacity) of any real estate lease or sublease (and related terms and conditions) lessee or sublessee, (l) non-exclusive licenses of, non-exclusive covenants not to s of rights to use or obligations with respect to Intellectual Property granted by an A ordinary course of business consistent with past practice, including under the Supplement and any other Legal Requirements applicable to the Acquired Compan on securities created under federal, state or foreign securities Legal Requirements of bids, trade Contracts, leases, statutory obligations, surety and appeal bonds, pe a like nature, in each case in the ordinary course of business, (o) Encumbranc Statements, (p) non-monetary encumbrances or imperfections of title that, individu impair the continued use and operation of the properties and assets to which they conducted and (q) Encumbrances created by or at the written request of, or resultii withholding of consent in violation of the terms of this Agreement by, Purchaser or a

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

“Personal Information” shall mean any information identifying, rel capable of being associated with, or that could reasonably be linked, directly or ind household and any data that constitutes personal information or personal data unde

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

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

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“Purchaser Consolidated Return” shall mean any consolidated, com includes Purchaser or any of its Affiliates (other than the Acquired Companies Company, on the other hand.

“Purchaser Designee” shall mean a wholly owned Subsidiary of Purcl by Purchaser to Seller at least five (5) Business Days prior to the Closing Date, ( delay consummation of the Transactions and (c) treated as a corporation (or 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 (Warranties).

“Purchaser Material Adverse Effect” shall mean any event, change of circumstance or condition that is or reasonably be expected to be, individually or in the aggregate, materially adverse to the Seller or its obligations under this Agreement 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, employees, 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 of the Closing, to the extent this Agreement or any of the other Transaction Agreements provides that 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, where applicable ownership and control requirements, are defined and construed in the

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applicable Sanctions Law or in any related official guidance) by any such Person, and (b) any Person who is a Sanctioned Person under clauses (a) or (b).

“Sanctioned Territory” shall mean, at any time, a country or territory or region subject to any country-wide or territory-wide Sanctions Laws (as of the date of this Agreement, including the Crimea, Sevastopol, 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.

“Seller Debt Facilities” shall mean the documents in respect of Indelco 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), Section 4.3 (Organizational Documents of Seller and the Acquired Companies), Section 4.4 (Title; Shares) and Section 4.20 (Brokers).

“Seller Transitional Trademarks” shall mean the Trademarks set forth in Schedule 1.1(f) of 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 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

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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 on the part of the Company, or required to be remitted or reported by any Acquired Company to an authority with respect to transactions involving government contractors or subcontractors occurring

“Standalone Go Beyond Mark” shall mean “GO BEYOND” as a stand-alone 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) the 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 an officer or operating member. The Acquired Companies shall be deemed, for purposes of this Agreement, to be Subsidiaries of Purchaser at and after the Closing.

“Target Net Working Capital” shall have the meaning set forth in Annex

“Tax” shall mean (a) all forms of taxation imposed by any Government, 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 as described in the preceding clause and (c) any liability to indemnify, assume or succeed in

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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 Transactions 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 property goods and services, value-added, stamp, registration, documentary, conveyancing,

“Treasury Regulations” shall mean the United States Treasury regulations

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

“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 action breach of this Agreement, and such breach (i) resulted in, or contributed to, the failure satisfied or (ii) resulted in, or contributed to, the Closing not being consummated otherwise occurred pursuant to Section 3.1 or (b) the failure of Purchaser to deliver to Article III substantially concurrently with the Closing (and, in any event, on the Closing

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## 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 Designee) shall purchase from Seller, all of Seller’s rights, title and interest in the Encumbrances (other than those arising under applicable securities Legal Requirements

2.2 Purchase Price. The aggregate consideration to be paid by Purchaser 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 immediately prior to the Closing (except that the Income Tax Amount of the Closing Date), minus (f) Transaction Expenses unpaid as of immediately prior 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”) setting Cash as of immediately prior to the Closing, (ii) Indebtedness as of immediately prior 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 t

(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, Purc 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.

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#### 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. Pu 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 procedures, after, as applicable, Seller, its applicable

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Controlled Affiliates and its and their applicable Representatives have signed a consent to provide access to work papers. Purchaser agrees that, following the Closing through which this Agreement becomes final and binding in accordance with Section 2.4(d), it will not take, or permit, or permit to its or the Acquired Companies' accounting books, records, policies or procedures, or upon which the Post-Closing Statement are based, or upon which the Final Closing Statement is expected to impede or materially delay the determination of the amount of Cash, I the preparation of any Statement of Objections or the Final Closing Statement in the manner provided by this Agreement, including the Accounting Principles. If Seller has accepted the terms of this Agreement, not given written notice to Purchaser setting forth any objection of Seller to such objection, Seller's alternative calculation, a reasonable detail the nature and basis for such objection, Seller's alternative calculation, a 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 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 Disputed Items 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 binding 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 engage Deloitte Touche Tohmatsu LLC, or if Deloitte Touche Tohmatsu LLC is unable or unwilling to act as the Settlement Accountant, 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. Any Disputed 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 and 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 any 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

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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 Accounting Principles 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 Working Capital and Net Worth 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 jurisdiction over, and resort to the Settlement Accountant as provided in this Section 2.4 as the sole and exclusive 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 be signed by 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 writing, the Settlement Accountant's determination shall be final, binding and non-appealable or enforceable in any court of competent jurisdiction in accordance with the provisions of this Agreement. The costs and expenses of the Settlement Accountant shall be borne by Seller and Purchaser in inverse proportion to their respective ownership of the Settlement Accountant's determination of the Purchase Price and the determination of the Purchase Price. For example, if Seller claims that the Purchase Price is, in the aggregate, \$1,000 and the Purchase Price determined by Purchaser and if the Settlement Accountant ultimately resolves the Purchase Price to be an aggregate of \$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 and Cash Equivalents as of immediately prior to the Closing, (ii) the Indebtedness Statement shall be deemed the final Indebtedness as of immediately prior to the Closing Date, (iii) the Net Working Capital Statement shall be deemed the final Net Working Capital

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as of the Closing, (iv) the Transaction Expenses set forth on such Final Closing Statement shall be deemed the final Transaction Expenses 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 and Cash Equivalents (the "Final Overage"), Purchaser shall deposit, or cause to be deposited, within five (5) business days of the Closing Date, the Final Overage and the Final Closing Statement, with Seller, by wire transfer of immediate funds to the Final Overage.

(f) In the event that the Final Purchase Price is greater than the Cash and Cash Equivalents (the "Final Underage"), Seller shall deposit, or cause to be deposited, within five (5) business days of the Closing Date, the Final Underage and the Final Closing Statement, with Purchaser, by wire transfer of immediate funds equal to the Final Underage.

(g) The parties agree to treat for all applicable Income Tax purposes 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 and exclusive remedy of the parties and its Affiliates for any disputes between the parties relating to the calculations, items and amounts set forth therein, whether or not such disputes constitute a breach of any representations or warranties contained in this Agreement. Notwithstanding anything to the contrary herein, the foregoing shall not prohibit Seller or Purchaser from pursuing any other legal remedies available to them.





(a) The execution and delivery of this Agreement by Seller, and each Seller is a party to, does not, and the performance of this Agreement to which Seller is a party, will not, require any Consent or Permit, 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"), (ii) for such other Consent, 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) the 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 other 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 performin 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

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

(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.



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(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 incurred or not, that would be required to be reflected on a balance sheet or notes thereto of the Acquired Companies prepared 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, (iii) that would, in whole, or prevent or materially delay the consummation of the Transactions, (iv) that have been (or will be prior to the Closing) fully discharged or satisfied by the Business or any of the Acquired Companies or (v) that otherwise would not 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 accurately prepared in accordance with GAAP and (iii) 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 Agreements and (B) as otherwise contemplated by this Agreement, none of the Acquired Companies (or Seller or any of its other Affiliates) 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 any of the Acquired Companies, taken as a whole, or prevent or materially delay the consummation of the Transactions, except as set forth in 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 in circumstances or would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect on the Business or any of the Acquired Companies, taken as a whole, or prevent or materially delay the consummation of the Transactions.

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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) has not received any written notice from any Governmental Authority or other third party regarding 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 any of the Acquired Companies, taken as a whole, or prevent or materially delay the consummation of the Transactions, and (b) have not received any written notice from any Governmental Authority or other third party regarding 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 any of the Acquired Companies, taken as a whole, or prevent or materially delay the consummation of the Transactions. Such Permits are valid and in full force and effect.

#### 4.8 Material Contracts.



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

(10) any Collective Bargaining Agreement;

(11) the Real Property Leases;

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

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

(13) any Contract that requires capital expenditures (includi 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 purp respect any Acquired Company or the Business from competing with any P and

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

(b) Except as would not, individually or in the aggregate, be or rea Acquired Companies, taken as a whole, or to prevent or materially delay the consi the Material Contracts is in full force and effect (other than any expirations at the with the terms of any such Material Contract) and enforceable by Seller or its appl accordance with its terms, (ii) there exists no default under any such Material Contr Affiliates party thereto or, to Seller's Knowledge and as of the date of this Agre Contracts, (iii) there exists no event or circumstance with respect to Seller or its ap 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 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 Sel served written notice on (or received written notice from) a counterparty to a Mat material nature by such counterparty or Seller or any of its Controlled Affiliates, as ; Schedule 4.8(b) of the Seller Disclosure Schedules, Seller has made available to P 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 (59) customers or programs of the Business, as determined by revenue of period ended December 31, 2022. Set forth on Schedule 1.1(e) of the Seller Disclo of the top twenty (20) vendors or programs that provide services or products to tl aggregate spend of the Business for the twelve (12)-month period ended Decembe

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(d) Set forth on Schedule 4.8(d) of the Seller Disclosure Schedu 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 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 occurr 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)

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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 a 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

indirectly, to develop or create any Owned IP and (ii) no Governmental Authority institution has any ownership rights, or other rights other than Permitted Encumbrances on Intellectual Property.

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

(f) No material Proceeding is pending or threatened in writing, by or on behalf of any Person, against the Business or any Acquired Company or Seller or its Controlled Affiliates, alleging that any Person is infringing, misappropriating or otherwise violating in any material respect any Acquired Company's ownership, or the validity or enforceability, of any Intellectual Property of any Acquired Company or Seller or its Controlled Affiliates, or the conduct of the Business, the conduct of any Acquired Company or Seller or its Controlled Affiliates, or the conduct of any Person, that is not reasonably expected to be materially adverse to the Business, the conduct of the Business, the conduct of any Acquired Company or Seller or its Controlled Affiliates, or the conduct of any Person, in 2021, infringed, misappropriated or otherwise violated the Intellectual Property of any Acquired Company or Seller or its Controlled Affiliates.

(g) The Acquired Companies have taken commercially reasonable steps 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 set forth in Schedule 4.12(a)(ii), that is 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 material Proceeding has been pending or threatened in writing against the Business alleging a material violation of any Person's privacy or data protection rights.

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threatened in writing against the Business alleging a material violation of any Person's privacy or data protection rights.

(i) None of the material Software included in the Owned IP is licensed to any Person 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 a nominal fee.

(j) Except as set forth in Schedule 4.12(a)(iii), there has not been or as would not reasonably be expected to be any failure of the Business Systems to be free from Malicious Code. The Acquired Companies have taken commercially reasonable procedures designed to (i) ensure that the Business Systems are free from Malicious Code, (ii) protect the security and integrity of the Business Systems and the data hosted or processed on the Business Systems, and (iii) protect the security and integrity of the data hosted or processed on the Business Systems.

#### 4.12 Real Property.

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

(b) (i) Schedule 4.12(b)(i) of the Seller Disclosure Schedule sets forth a true and complete list of all real property leases and subleases under which an Acquired Company is a lessee or



(a) Schedule 4.14(a) of the Seller Disclosure Schedule sets forth this Agreement, of each material Benefit Plan, and separately identifies each Acquired Company Benefit Plan is exclusive to the Business and does not cover any other than the Company Employees and Former Company Employees. With respect to each Seller Benefit Plan, Seller has made available to Purchaser true and complete copies, of, as applicable, summary plan descriptions and all amendments thereto, trust agreements, insurance contracts, and in the case of any plan intended to be qualified under Section 401(a) of the Code, a letter from the IRS, the most recently filed Form 5500, and any non-routine correspondence since January 1, 2021. With respect to each Seller Benefit Plan, Seller has made available for, or a summary of the material terms of, such Seller Benefit Plan.

(b) Except as would not, individually or in the aggregate, reasonable for the 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 applicable law, no proceeding, audit or investigation is pending or, to Seller's Knowledge, threatened or in progress, and no claim or demand for benefits is pending or threatened, other than routine claims for benefits payable in the ordinary course, and appeals of denied claims.

(c) Each Benefit Plan that is intended to be qualified under Code Section 401(a) has received a favorable determination or opinion letter from the IRS with respect to its tax-qualified status, and nothing has occurred that could reasonably be expected to adversely affect such determination or opinion letter, or has incurred (whether or not assessed), or is reasonably expected to incur or to be assessed a penalty with respect to the reporting requirements under Sections 6055 and 6059, or Section 4980B, 4980D or 4980H of the Code that has not been satisfied in full.

(d) Except as otherwise provided in this Agreement, neither the consummation of the Transactions will (whether alone or together with any other transaction) result in any payment or benefit becoming due to any Company Employee, Former Company Employee or other individual who is a Participant in a Plan of 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 (otherwise) or vesting of any payments or benefits to any such Person described in clause (i), (iv) result in any benefits under any agreement, plan or arrangement with Seller or any of its Controlled Companies) that, individually or in combination with any other payment or benefit payable to any Person, constitutes an "excess parachute payment" within the meaning of Section 280G of the Code or Section 4999 of the Code.

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(e) Except for the Business Pension Plan, no Acquired Company or any of its Controlled Companies sponsors, maintains, contributes to or is obligated to contribute to, or has any liability with respect to, and no liability has been incurred by an ERISA Affiliate of an Acquired Company for the maintenance or payment of any "benefit plan" (as defined in Section 3(35) of ERISA) or any other plan that is or was intended to be an ERISA plan, (each, a "Pension Plan"), (ii) a "multiemployer plan" (as defined in Section 3(40) of ERISA), (iii) a "multiple employer welfare arrangement" (within the meaning of Section 413 of the Code), (iv) a "multiple employer welfare arrangement" (within the meaning of Section 413 of the Code), (v) a plan or arrangement that provides or promises to provide health or life insurance or other similar benefits (other than health continuation coverage) under Title I of ERISA or Section 4980B of the Code for which the covered Person pays the cost of the plan.

(f) With respect to each Pension Plan, (i) no reportable event under Section 408(a) of ERISA, other than an event for which the reporting requirements have been waived, has occurred or is reasonably expected to occur with respect to the Business Pension Plan, or, to the knowledge of Seller or any of its other Controlled Affiliates, any other Pension Plan, except as would be required by applicable law, (ii) no Acquired Company or, except as would be required by applicable law, result in material Liability to an Acquired Company, any ERISA Affiliate has failed to file a required report under Sections 412 and 430 of the Code and Section 302 of ERISA on a timely basis, a claim for benefits has arisen under ERISA or Section 430(k) of the Code, (iii) there has been no violation of the benefits restrictions under Section 436 of the Code with respect to the Business Pension Plan.

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 r interest or additional Taxes imposed under Section 409A of the Code.

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#### 4.15 Taxes.

(a) Each of the Acquired Companies has timely filed, or has ca 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 amou 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, pro federal (and applicable state and local) income tax purposes. Topaz is, and has be as an entity disregarded as separate from (i) with respect to periods prior to the cor 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 ju does not file Tax Returns that such Acquired Company is or may be subject to tax that jurisdiction, which claim has not been satisfied, withdrawn, settled or other subject to taxation in any country, other than the country in which it was orga establishment (within the meaning of an applicable income tax treaty) or other fixed

(c) There is no pending or ongoing material dispute, audit or F liability of any Acquired Company, and no such dispute, audit or Proceeding has b Tax Authority in writing. No Acquired Company has received any written notice 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 material amounts of Taxes required to have been withheld and paid in connectio employee, independent contractor, client, creditor, customer or other Person, (ii) Authority all material amounts required to be remitted pursuant to any applicab Requirements and (iii) complied in all material respects with all related reporting an of the matters described in the foregoing clauses (i) and (ii).

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

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

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(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 or 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 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 a liability described in Treasury Regulations Section 1.6011-4(b)(2) (or any corresponding 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) as a result of any: (i) change in method of accounting, or use of an improper method of accounting for any Tax Period, (ii) "closing agreement" as described in Section 7121 of the Code (or any corresponding state, local or foreign Legal Requirements) executed prior to the Closing, (iii) intercompany agreement described in the Treasury Regulations under Section 1502 of the Code (or any corresponding 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 or another Person in the last two (2) years in a transaction that was purported or intended to qualify for 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 under the Transition Services Agreement, are sufficient for, and constitute all of the assets, and the services are necessary for, the conduct of the Business immediately following the Closing. The assets and services material respects as conducted as of the date hereof and as of immediately prior to the Closing shall be deemed to expand the scope of any other representations or warranties made hereunder. In avoidance of 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 affect the Transaction, (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 which compliance has included obtaining, maintaining, and complying with all applicable Environmental Laws; (b) since January 1, 2021, neither the Business nor any Acquired Company

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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, any of Seller's 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 nor the Acquired Companies nor, to Seller's Knowledge, any other Person. No Proceedings result in material liability of any Acquired Company (nor, with respect to the Business, any of Seller's Controlled Affiliates) has treated, stored, disposed of, arranged for the disposal of, transported, or otherwise 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, 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,

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notice or communication from any Governmental Authority that alleges that any Acquired Company, 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, final payment has not been received or which remains "Government Contract") was legally awarded. As of the date of this Agreement, no Acquired Company, 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, Seller or any of its other Controlled Affiliates in writing of any actual or potential Government Contract that could be reasonably expected to adversely affect the award of 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, 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, Seller or any of its other Controlled Affiliates has been threatened in writing with termination for default or cause that would be material to the Business or the Acquired Companies, taken as a whole, under any 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 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, under any Government Contract, consummation of the Transactions: (i) all pricing discounts have been properly reflected in the pricing submitted under any Government Contract; (ii) none of the Acquired Companies or, to the extent related to the Business, Seller or any of its other Controlled Affiliates has received any notice of any interruption or suspension of any Government Contract; (iii) all

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certified cost or pricing data submitted in connection with each has been accurate, and no such Acquired Company or, to the extent related to the Business, Seller or any of its other Controlled Affiliates has submitted any false or misleading claims 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 any Government Contract; (v) 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 other Person in connection with any Government Contract) are true and correct 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 and its other Controlled Affiliates) has provided such representations, certifications and statements; (vi) each of the Acquired Companies (or, to the extent related to the Business, Seller and 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; (vii) there have been no material 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, Seller or any of its other Controlled Affiliates), has been under investigation, indictment, information lawsuit, subpoena, document production request or any other legal proceeding, civil or criminal investigation, indictment, information lawsuit, subpoena, document production request or any other legal proceeding, audit pertaining to an alleged or potential violation of any requirement, regulation or law applicable to the Business, Seller or any of its other Controlled Affiliates, or any 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 any investigation, audit or other review that has resulted in 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 any Government Contract; (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 Business, Seller or any of its other Controlled Affiliates 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' fees, financial advisor fees or other fees payable in connection with this Agreement or the Transactions.

4.21 **Related Party Transactions.** Except as set forth on Schedule 4.21 of this Agreement, Seller shall not enter into any Contracts, Benefits Plans or policies for, or otherwise in

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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 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 transition services in accordance with the Transition Services Agreement, Schedule 4.22 of the Seller Agreement, 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 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 MADE BY SELLER IN THIS ARTICLE IV (AND, AS OF THE CLOSING, THE CERTIFICATE OF OPINION AND SECTION 10.1(c) WITH RESPECT TO REPRESENTATIONS AND WARRANTIES (INCLUDING THE ACQUIRED COMPANIES), OR ANY OF THEIR RESPECTIVE REPRESENTATIVES OR AFFILIATES, SELLER OR ANY OF THEIR RESPECTIVE REPRESENTATIVES OR AFFILIATES MAKES, HAS MADE, SHALL BE DEEMED TO HAVE MADE, OR HAS CAUSED TO BE MADE, AN EXPRESS OR IMPLIED REPRESENTATION OR WARRANTY, AT LAW OR IN EQUITY, WHETHER BY STATUTORY OR OTHERWISE, ON BEHALF OF OR WITH RESPECT TO SELLER OR ANY OF THE ACQUIRED COMPANIES, OR ANY OF THEIR RESPECTIVE REPRESENTATIVES OR AFFILIATES, OR ANY OF THEIR RESPECTIVE REPRESENTATIVE BUSINESSES (INCLUDING THE BUSINESS), OPERATIONS, ASSETS, LIABILITIES, RESULTS OF OPERATIONS, FUTURE OPERATING OR FINANCIAL RESULTS, ESTIMATES, PROJECTIONS, FORECASTS, PLANS OR PROSPECTS, THIS AGREEMENT DOES NOT MAKE 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 OR ITS OR THEIR RESPECTIVE REPRESENTATIVES OR ANY OTHER INFORMATION) A CONFIDENTIAL INFORMATION.

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MEMORANDUM OR ANY MANAGEMENT PRESENTATIONS OR IN ANY OTHER INFORMATION, INCLUDING TO ANY ERRORS THEREIN OR OMISSIONS THEREFROM, OR AS TO THE FINANCIAL SUCCESS OF SELLER, ITS AFFILIATES (INCLUDING THE ACQUIRED COMPANIES) OR THE FINANCIAL INFORMATION, PROJECTIONS OR OTHER FORWARD-LOOKING INFORMATION OF THE ACQUIRED COMPANIES OR THE BUSINESS, 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 AND SECTION 10.1(c) WITH RESPECT TO REPRESENTATIONS AND WARRANTIES). WITHOUT LIMITING THE REMEDY AVAILABLE TO THE PURCHASER, SELLER EXPRESSLY SET FORTH IN THIS ARTICLE IV (AND, AS OF THE CLOSING, THE CERTIFICATE OF OPINION AND 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 RE 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

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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 OMISS IN EXPECTATION OR FURTHERANCE OF THE TRANSACTIONS, AND SELLER ACKNOWLEDGES AND AGREES THAT (I) EXCEPT FOR THE REPRESENT PURCHASER EXPRESSLY SET FORTH IN ARTICLE V (AND, AS OF THE DELIVERED PURSUANT TO SECTION 10.2(c)) WITH RESPECT TO REPRESENT 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 REPRESENT PURCHASER, ITS AFFILIATES OR ANY OF THEIR RESPECTIVE REPRESENT SHALL HAVE ANY LIABILITY FOR ANY AND ALL SUCH OTHER EXPRESS WARRANTIES NOT EXPRESSLY SET FORTH IN ARTICLE V (AND, AS OF THE DELIVERED PURSUANT TO SECTION 10.2(c)) WITH RESPECT TO REPRESENT 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 PUR**

Purchaser hereby represents and warrants to Seller as follows:

5.1 Authority; Enforceability.

(a) Purchaser has the requisite organizational power and authority 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 Transaction 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











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

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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 Bus 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 "cl 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;

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(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



## 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) Purchaser to have reasonable access, subject to applicable Legal Requirements, during normal business hours in a manner so as not to interfere with the normal business operations in accordance with the procedures established by Seller, to the books, assets, records of the Business 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 where Seller reasonably believes in good faith that such access or disclosure would be in violation of 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 liability for the disclosure of sensitive, confidential or personal information or would cause significant competitive harm to the respective businesses if the Transactions are not consummated, (ii) include any information relating to the Owned Real Property or the Leased Real

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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 those provided (A) information with respect to bids, the identity of any bidder, confidentiality of 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 of business, provided, however, that, if reasonably requested by Purchaser, Seller will notify Purchaser of circumstances giving rise to any non-disclosure pursuant to the foregoing and, in the event of such information in a manner that would not result in any of the outcomes described in this Section 6.2(a) shall not expand the remedies available under this Agreement in any manner. Any information disclosed will be subject to the provisions of this Agreement.

(b) Until the earlier of the Closing and the termination of this Agreement, Seller 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, the Acquired Companies, to the extent such communications are related to the Business 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, officers, directors, employees, landlords or customers of, or vendors or suppliers of, such Persons in the ordinary course of their respective business unrelated to the Transactions in connection with ongoing commercial relationships or (ii) Company Employees at the Leased Real Property mutually agreed by the parties in advance in connection with post-Closing matters relating to employment.

(c) Until the earlier of the Closing and the termination of this Agreement, Seller 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, the Acquired Companies, to the extent such communications are related to the Business 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, officers, directors, employees, landlords or customers of, or vendors or suppliers of, such Persons in the ordinary course of their respective business unrelated to the Transactions in connection with ongoing commercial relationships or (ii) Company Employees at the Leased Real Property mutually agreed by the parties in advance in connection with post-Closing matters relating to employment.

6.3 Cooperation. Subject in all cases to the other terms and conditions of this Agreement, 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 Closing matters to be completed as soon as 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 of the Closing until the end of the term of the Shared Contracts, or for a period of 12 months following the Closing Date, Seller and Purchaser shall cooperate

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with each other and use their commercially reasonable efforts (i) to divide, and (ii) to novate, their respective rights, obligations and liabilities relating to the Business under and in respect of such Shared Contract, to the extent the action contemplated in the foregoing clause (i) is not possible, notwithstanding such Shared Contract, such other time as the actions described in clauses (i) and (ii), as applicable, are effected in respect of such Shared Contract, rights, obligations or liabilities with respect to the Non-Business Portion of such Shared Contract, Seller and its Affiliates (other than the Acquired Companies) is the beneficiary of the economic claims, rights and benefits of such Shared Contract, and (iii) the termination of or amendment to such Shared Contract upon mutual agreement or termination fees or similar fees incurred by Seller or any of its Controlled Affiliates (other than the Acquired Companies) shall be borne by Seller and its Affiliates (other than the Acquired Companies) and shall not include subcontracting, sublicensing or subleasing to Purchaser or its designated Affiliates (other than the Acquired Companies) under the Business Portion of such Shared Contract.

(b) If the Closing occurs before all Shared Contracts are assigned or novated pursuant to [Section 6.4\(a\)](#), Seller and Purchaser shall use their commercially reasonable efforts to enter into a mutually agreeable and lawful arrangement under which Seller shall provide Purchaser or its designated Affiliates (other than the Acquired Companies) the economic claims, rights and benefits of such 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 termination fees or similar fees incurred by Seller or any of its Controlled Affiliates (other than the Acquired Companies) shall be borne by Seller and its Affiliates (other than the Acquired Companies) and shall not include subcontracting, sublicensing or subleasing to Purchaser or its designated Affiliates (other than the Acquired Companies) under the Business Portion of such Shared Contract.

(c) Subject in all cases to the other terms and conditions set forth in [Section 6.4\(c\)](#), Seller shall, and shall cause the Acquired Companies to, use their commercially reasonable efforts to obtain, and shall cause the Acquired Companies to, use their commercially reasonable efforts to obtain, the necessary Consents of, and make any registrations, declarations, filings and notifications to the appropriate governmental authorities (including, without limitation, the SEC) subject to [Section 6.8](#) that may be required or appropriate in connection with the Transactions (including, without limitation, the avoidance of double taxation) to avoid an obligation to pay or incur any financial penalty or fee or refund of, the Transactions). For the avoidance of doubt, except with the written consent of Seller and its Affiliates (other than the Acquired Companies) (which consent shall be withheld, conditioned or delayed), Seller or its Affiliates shall be the sole party to the Transactions and shall be the sole counterparty to third-party Consents (other than to the extent subject to [Section 6.4\(c\)](#)); provided that, Seller and its Affiliates shall use their reasonable best efforts to consult in good faith with Purchaser and to keep Purchaser informed regarding the obtaining of any third-party Consents.

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Notwithstanding anything in this [Section 6.4\(c\)](#) to the contrary, (i) none of Seller or its Affiliates shall 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) the failure, in and of itself, to obtain any Consent shall not constitute a breach of this [Section 6.4\(c\)](#).

(d) Notwithstanding anything to the contrary contained in this [Section 6.4](#), 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) the failure, in and of itself, to obtain any Consent shall not constitute a breach of this [Section 6.4](#) with respect to any Contract that is a part of the Transaction Agreement. No representation, warranty or covenant of Seller contained in the Transaction Agreement shall be breached or deemed breached, and no condition shall be imposed on Seller or its Affiliates, in and of itself, to obtain any Consent (including any third-party consent).



(c) Purchaser acknowledges and agrees that, without limiting Sec as presently conducted receives or benefits from general corporate functions furni: finance, accounting, tax, human resources, legal, information technology, facilities, ancillary or corporate shared services provided by Seller and its Affiliates (other corporate centralized functional organizations within or controlled by Seller and Companies), including pursuant to Excluded Shared Contracts, (ii) Seller and its Aff to, terminate, amend or modify Excluded Shared Contracts (including any portion th Acquired Companies) to the extent such termination, amendment or modification (/ services provided by Seller or any such Controlled Affiliate (and to be retained connection with the Transactions) and (B)

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

6.6 Seller Debt Facilities Releases. Seller shall use reasonable best effort Closing customary documentation evidencing the release of the Acquired Compani (the "Seller Debt Facilities Releases"). The Seller Debt Facilities Releases shall pr Companies in respect of Indebtedness, all guarantees and security provided by the any factoring programs or arrangements, all assets of the Acquired Companies su in each case under the Seller Debt Facilities shall be released or terminated, as a Transactions.

6.7 Confidentiality.

(a) The terms of the Non-Disclosure Agreement are incorporate shall continue in full force and effect (and all obligations thereunder shall be binding (as defined in the Non-Disclosure Agreement) as set forth therein) until the Closing Non-Disclosure Agreement shall terminate; provided, however, that Purchaser's c Disclosure Agreement shall terminate only in respect of that portion of the Eva Disclosure Agreement) to the extent relating to the Acquired Companies and th Material (as defined in the Non-Disclosure Agreement) ("Non-Business Confid Disclosure Agreement shall continue to apply to such Non-Business Confidential M of the Non-Disclosure Agreement in accordance with its terms. If for any reaso Disclosure Agreement shall continue in full force and effect in accordance with inconsistency between the terms expressly set forth in this Agreement (rather tha the Non-Disclosure Agreement, the terms of this Agreement will govern.

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

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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 strict fulfill its obligations to Purchaser and the Acquired Companies under any other Terms disclosed to Seller or any of its Affiliates following the Closing Date on a non-confidential 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 following the Closing 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 other 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 include to 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 to file with, 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, (iv) to 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 necessary period or any Consent under the HSR Act and any other applicable Antitrust Laws, (vi) to obtain as promptly as practicable CFIUS Clearance, (vii) using reasonable best efforts to obtain DCSA Approval and (viii) defending any actions, whether judicial or administrative, that could prevent consummation of the Transactions, including seeking to have any Order entered by any Governmental 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 to file with, any Governmental Authority; provided, that, without limiting Purchaser's other obligations under the HSR Act and any other applicable Antitrust Laws, (i) the actions Purchaser and its Affiliates are required to take, (ii) the time period for such actions, (iii) the appropriate course of action. In furtherance and not in limitation of the foregoing, Purchaser shall use its reasonable best efforts to file or cause to be made (A) as promptly as practicable within the applicable Business Days following the date of this Agreement, (w) any required

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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, (y) to file a voluntary notice under the CFIUS Authorities with CFIUS (and subsequently take such actions as may be required) 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 laws, regulations (and subsequently take such actions described in [Section 6.8\(g\)](#)) and (v) to file with or 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, (ii) designate a contact person for the other party who may, as each may determine is reasonably necessary, designate a

sensitive materials and information provided to the other pursuant to this Section 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 ex 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 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 additional information from, any Governmental Authorities and comply as promptly request (and in any event in accordance with applicable regulatory requirements) ; meeting or discussion, either in person or by telephone or videoconference, with a with the Transactions, unless it (A) consults with the other party in advance and (E attend and participate; provided that a party shall not be required to give the opportunity to participate to the extent (1) prohibited by such Governmental Authority or (2) requests to communicate exclusively with one party). Whether or not the Transaction responsible for the payment of all filing fees and disbursements to any third party; with obtaining any approvals or making the notifications or filings required pursuant to avoidance of doubt, with respect to CFIUS Clearance and the implementation of an

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hereby agrees to use reasonable best efforts to provide, or cause its applicable Company and assurances as to financial capability, resources and creditworthiness as may be requested 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 entities to not, acquire by merging or consolidating with, or by purchasing the assets of or equity in any portion thereof, or otherwise acquire or agree to acquire any assets or (ii) any development or production agreement (for the avoidance of doubt, this clause (ii) : 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 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 Seller nor Purchaser 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) (i) above that it be 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 consent 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

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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, or as a condition to, the receipt of CFIUS Clearance) or DCSA Approval 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 Purchaser, 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 of Proceeding including the payment of any Losses in settlement thereof) and (iii) contesting, defending, opposing, pending Proceeding or preliminary or permanent injunction or other Order or Legal Proceeding, 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) which would have a material adverse effect on the business, operations, financial condition or results of the Business (including the Acquired Companies) or the Business, in each case measured against the Business. For purposes of the CFIUS Clearance and the DCSA Approval, Purchaser shall cause the Acquired Companies to reasonably support Purchaser in its discussions with the CFIUS Authorities 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 Purchaser 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, further that, the Acquired Companies become effectively only from and after, the Closing.

(f) Following the filing of the draft joint voluntary notice with CFIUS Authorities, the parties 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 business days) or comments from CFIUS on the draft joint voluntary notice) submit the final joint voluntary notice in their reasonable best efforts to promptly respond (and, in any event, in accordance

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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 within the timeframe set forth in the CFIUS Authorities; provided, that any party, after consulting with the CFIUS Authorities, may request an extension of time pursuant to the CFIUS Authorities to

information; provided, further, that under no circumstance may a party request information expected to cause CFIUS to reject the joint voluntary notice.

(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 the information necessary for DCSA to conduct a review of foreign ownership, control, and NISPOM Rule and any other applicable U.S. national industrial security regulation within 30 days after the date of this Agreement, Purchaser shall submit to DCSA, and Seller shall implement its FOCI Mitigation Plan.

6.9 Financing. Purchaser shall take, or cause to be taken, all actions necessary, advisable or proper to obtain funds sufficient to pay all amounts payable under the transactions contemplated by the other Transaction Agreements (including all costs and expenses incurred in the evaluation, negotiation and execution of the Transactions and other Transaction Agreements). Notwithstanding anything in this Agreement to the contrary, Seller agrees that Purchaser's obligations under this Agreement are not conditioned in any way on obtaining the funds to satisfy its funding obligations contained in this Agreement, and the completion of the transactions is not a condition to the Closing or the consummation of the Transactions.

6.10 Financing Cooperation.

(a) Prior to the Closing, at Purchaser's sole cost and expense, Seller shall use commercially reasonable efforts to provide to Purchaser such customary cooperation as may be requested by Purchaser in connection with the Debt Financing; provided that such requests shall be made to Seller no later than the Closing beyond the date that it would otherwise occur. Such cooperation shall include, but not be limited to, the following (in each case, to the extent so requested as set forth above):

(1) causing management teams of the Acquired Companies to provide, or cause to be provided, the expertise, at reasonable times and locations mutually agreed and upon which Seller and Purchaser shall mutually agree, to participate in a reasonable number of meetings, conference calls, draft similar presentations to and with prospective lenders and rating agencies at the request of Seller's or such Persons' request);

(2) reasonably assisting with the preparation of customary information memoranda and other customary marketing and syndication materials, and providing access to such third party to the extent permitted by the Non-Disclosure Agreement or a similar agreement entered into

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between Seller and such third party) reasonably and customarily required for the Debt Financing, Financing Sources in connection with the Debt Financing, in each case solely for the benefit of the Acquired Companies; and

(3) furnishing Purchaser and the Debt Financing Sources with all documentation and other information necessary to complete the Debt Financing, including applicable "know your customer" and anti-money laundering rules and regulations, and any other information required to strengthen America by Providing Appropriate Tools Required to Intercept and Deny Foreign Financing, if such information has been reasonably requested by Purchaser in writing, at least fifteen (15) business days prior to the Closing Date;

(b) Purchaser acknowledges and agrees that Seller, its Affiliates and its and their respective Representatives shall not have any responsibility for, or incur any liability to any Person under, any connection herewith, or any cooperation provided pursuant to this Section 6.10 and (ii) indemnify and hold harmless the Seller Indemnitees from and against the out-of-pocket costs and expenses (including attorneys' fees) incurred by such Indemnitees in connection with the Debt Financing, or any information used in connection therewith. Any use of Seller's or such Persons' information in connection with the Debt Financing shall be limited to the information requested in writing by Purchaser in connection with the Debt Financing, and shall not be used for any other purpose.

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 man such purposes and that is not intended to or reasonably likely to harm or disparag 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 confic Affiliates or their respective Representatives pursuant to this Section 6.10 shall be shall be subject to the terms of, the Non-Disclosure Agreement. Seller, its Affilia shall be given a reasonable opportunity to review all presentations, bank inform materials, materials for rating agencies and other documents prepared by or on be Affiliates or used or distributed to any Debt Financing Source or any of its Affiliate that include any logos of or information about or provided by the Business, Representatives, and any such presentations, memoranda, materials or document 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 Re therefor.

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

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

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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 nc their respective Representatives upon termination of this Agreement);

(2) take any action that would, or would reasonably be e 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 Aff to execute, deliver, enter into or perform any document, agreement, certifica Financing (other than those of the Acquired Companies that only take effect no liability to Seller or any of its Affiliates or their respective Representative: provide (or cause any of their Representatives to provide) any accountants' ( or other opinion of counsel;

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

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

(6) take any action that would cause any representation Transaction Agreement to be breached or become inaccurate or that would t any Transaction Agreement;

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

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

(9) provide access to or disclose information that constitutes or would jeopardize any attorney-client privilege of Seller or its Representatives or which is restricted or prohibited under applicable Legal R

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

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(11) prepare any financial statements, projections or other similar

(d) Notwithstanding anything in this Agreement to the contrary, the actions omitted to be taken by Seller, its Affiliates or any of their respective Representatives contemplated by this [Section 6.10](#) will not be taken into account for purposes of the actions contained in [Section 10.1](#) have been satisfied or whether any of the actions under [Section 11.1\(c\)](#).

#### 6.11 Insurance.

(a) Purchaser acknowledges and agrees that (i) the coverage under the Insurance 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 or programs that are maintained and held exclusively by the Acquired Companies) (collectively, the "Insurance Policies") available or transferred to Purchaser, the Acquired Companies or the Business; and (ii) the Acquired Companies and the Business shall cease to be insured by the Insurance Policies and shall be required to arrange for its own insurance policies or self-insurance policies or programs with respect to the Business. Notwithstanding the foregoing, Seller shall use commercially reasonable efforts to use any of its third-party Insurance Policies (excluding, for clarity, self-insurance policies or programs of the Acquired Companies or the Business) to continue to process any claims made under the Insurance Policies of the Business to the extent such claims were made prior to the Closing and reasonable efforts to use any third-party Insurance Policies in connection therewith (in all cases if and to the extent permissible under the terms of the Insurance Policies), 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, Seller shall use commercially reasonable efforts to use any third-party Insurance Policies (excluding, for clarity, self-insurance policies or programs of the Acquired Companies or the Business) to continue to process any claims made under the Insurance Policies of the Business to the extent such claims were made prior to the Closing and reasonable efforts to use any third-party Insurance Policies in connection therewith (in all cases if and to the extent permissible under the terms of the Insurance Policies), and any such claims shall be further subject to [Section 6.11\(b\)](#).

(c) 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, Seller shall use commercially reasonable efforts to use any third-party Insurance Policies (excluding, for clarity, self-insurance policies or programs of the Acquired Companies or the Business) to continue to process any claims made under the Insurance Policies of the Business to the extent such claims were made prior to the Closing and reasonable efforts to use any third-party Insurance Policies in connection therewith (in all cases if and to the extent permissible under the terms of the Insurance Policies), and any such claims shall be further subject to [Section 6.11\(b\)](#).

(d) 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, Seller shall use commercially reasonable efforts to use any third-party Insurance Policies (excluding, for clarity, self-insurance policies or programs of the Acquired Companies or the Business) to continue to process any claims made under the Insurance Policies of the Business to the extent such claims were made prior to the Closing and reasonable efforts to use any third-party Insurance Policies in connection therewith (in all cases if and to the extent permissible under the terms of the Insurance Policies), and any such claims shall be further subject to [Section 6.11\(b\)](#).

(iv) with respect

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to coverage claims or requests for benefits asserted by Purchaser or the Acquired Companies under the Insurance Policies, Seller shall use commercially reasonable efforts not to waive or to consent to the assignment of the Insurance Policies, and, at Purchaser's cost and upon Purchaser's reasonable request, Seller shall use commercially reasonable efforts to cooperate with Purchaser and the Acquired Companies, as and in the collection of insurance proceeds and at Purchaser's reasonable request

clarity, prompt reimbursement to Seller of its reasonable and documented out-of-pocket (of its Representatives), Seller shall use commercially reasonable efforts to pursue insurance proceeds unless Seller reasonably determines, in consultation with Purchaser, that the pursuit of insurance proceeds is not reasonably likely. Seller or its applicable Affiliate (or its Affiliates) may amend or modify any insurance policy or program (including any contract of insurance) in any manner it deems appropriate to give effect, from and after the Closing, to this Section 6.11 in the ordinary course of business; provided that (x) no such amendment or modification shall affect the rights of Purchaser and the Acquired Companies to access the Occurrence-Based Policies; (y) Seller shall use commercially reasonable efforts to cause the terms of such policies, in whole or in part, to remain unaffected by the terms of this Agreement with respect to the Closing Date and (z) Seller or its applicable Affiliate (other than the members of the Acquired Companies) shall use commercially reasonable efforts to maintain in effect each Occurrence-Based Policy until the expiration of such policy or program (and not terminate such policy or program prior to such expiration). This Section 6.11 shall not constitute an attempted assignment of any policy of insurance or as a contract of insurance, and Seller shall not waive or abrogate in any way Seller's own rights to insurance coverage for any liability claim to be made under the Occurrence-Based Policies in accordance with this Agreement, after which Purchaser shall no longer have the right to such coverage under Section 6.11.

(c) With respect to any claims-made policies set forth on Schedule A, prior to the Closing, the Acquired Companies shall, at the written request of Seller, use commercially reasonable efforts to obtain, at 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 Companies' business operations) from and after the Closing, with respect to any claims relating to the Closing, with terms, conditions, retentions and limits of liability that are no less favorable than the terms, conditions, retentions and limits of liability provided under each such policy existing at the Closing, and with Purchaser and the Acquired Companies as insureds.

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

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the insurer shall irrevocably waive and not pursue, directly or indirectly, any claim against Seller or its Representatives (by way of subrogation, claim for contribution or otherwise) in connection with the Transactions, other than in the case of Fraud and then only to the extent of such claim as may be expressly provided for in the R&W Insurance Policy. Seller or its Affiliates shall not amend or modify in any material respect that is adverse to Seller or its Affiliates (other than to amend or modify in any material respect that is adverse to Seller or its Affiliates) any provision in the R&W Insurance Policy without the prior written consent of Seller, which consent 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 or its Affiliates shall not acknowledge and agrees that the absence of coverage under the R&W Insurance Policy, or breach of any R&W Insurance Policy by, any insurer thereunder, shall constitute a breach of the R&W Insurance Policy, or the R&W Insurance Policy to make any payments to Purchaser under such R&W Insurance Policy, or the R&W Insurance Policy shall not expand, alter, amend, change or terminate this Agreement.

6.13 Litigation Support.

(a) Subject to [Section 6.7](#), [Section 6.8](#) and [Section 12.16](#), in the event its Affiliates is defending any Proceeding, charge or demand by a third party (other than the Purchaser or any of its Affiliates) or otherwise addressing, negotiating, disputing, discharging or otherwise performing or managing any Loss in connection with (A) with recovering under the R&W Insurance Policy) or (B) any fact, situation, circumstance, plan, occurrence, event, incident, action, failure to act or transaction relating to, in connection with the Closing activity of the Business or the Acquired Companies, or (ii) Purchaser or its Affiliates is defending any Proceeding, charge or demand by a third party (other than an action brought against the Purchaser or any of its Affiliates) or otherwise addressing, negotiating, disputing, investigating, complying with, mitigating or managing any Loss in connection with (A) the Transactions or (B) any fact, situation, circumstance, activity, practice, plan, occurrence, event, incident, action, failure to act or transaction relating to, in connection with the pre-Closing activity of the Business or the Acquired Companies, other Affiliates and its and their officers and employees to, and shall use its reasonable efforts and those of its other Representatives to, cooperate with the defending party and its Affiliates and other Representatives to, to the extent reasonably necessary for such defense), including making available such testimony and access to their books and records and taking such other actions as may be necessary in connection with such defense, to the extent reasonably requested by the defending party; provided, however, that nothing in this Agreement shall require either party to disclose information in connection with a Proceeding between the parties or to disclose information in connection with a Proceeding between the parties if the disclosing party reasonably concludes in good faith (upon the advice of counsel) that such disclosure would be in its respective interests, or where such

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party reasonably believes in good faith that such access or disclosure would conflict with applicable law (including Data Protection Laws) or the terms of any Contract, would result in the waiver of any applicable legal protection, or would cause significant competitive harm to such party, its Affiliates or other Representatives, 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 and shall use commercially reasonable efforts to identify and pursue a permissible method of such information in a manner that would not result in any of the outcomes described in this Agreement. Nothing in this Agreement shall limit any rights of discovery. Subject to [Section 6.13\(b\)\(ii\)](#), the requirements of this Agreement shall not require any party or any of their respective Affiliates to enter into any joint defense agreement with the other party.

(b) From and after the Closing, Seller shall reimburse the Acquired Companies for the reasonable and necessary legal fees and costs incurred by the Acquired Companies in settlement or upon a judgment of a court of competent jurisdiction in connection with the legal proceeding set forth on [Schedule 6.13\(b\)\(i\)](#) of the Seller Disclosure Schedule (for the avoidance of doubt, the reasonable and necessary attorneys' fees of Purchaser and its Affiliates and their respective former and current Representatives in connection with Specified Litigation are the sole responsibility of Purchaser and its Affiliates and their respective former and current Representatives).

(c) With respect to the Specified Litigation, Purchaser and its Affiliates shall, with the prior written consent of Seller (not to be unreasonably withheld, conditioned or delayed), enter into any and all other voluntary resolution that results in Seller having any monetary payment obligation to the other party.

**6.14 Registered Office Addresses.** To the extent an Acquired Company uses its Affiliates (other than the Acquired Companies) as a registered office address, the Acquired Company shall, at its expense, take any and all actions to transfer the registered office address of the Acquired Company to the registered office address of Purchaser or any of its Affiliates effective as of, and subsequent to, the Closing Date.

**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 Acquired Companies (including Company Employees set forth on [Schedule 6.15](#) of the Seller Disclosure Schedule and stored messages (including attachments and contacts) and stored messages that are related exclusively to the Business (collectively, the "Excluded Emails and Messages")) of the Acquired Companies (other than the Business) (collectively, the "Excluded Emails and Messages").



(a) It is expressly agreed that, subject to [Section 7.1\(b\)](#), Purchaser (the Acquired Companies), do not have any right, title or interest (whether Trademark consisting of, incorporating or confusingly similar to, any Trademark Acquired Companies) set forth on [Schedule 7.1\(a\)](#) of the Seller Disclosure Schedule, but excluding the Standalone Go Beyond Mark (which the Parties acknowledge is Owned IP 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 entities will not, and shall cause its Affiliates not to, (A) adopt, use, apply to register or re-apply to register or register, any Seller Mark (including the Seller Transitional Trademarks and any colorable imitation thereof (including any non-English language variation thereof), mark, dress, number or other designation, or any confusingly similar or dilutive name; (B) contest the use, ownership, validity or enforceability of any rights of Seller or its Affiliates; and (iii) shall not, and shall cause its Affiliates not to, otherwise do anything inconsistent with the use of Seller Marks or do or cause to be done any act or thing that will in any way impair the use of 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 Marks during the Closing solely in substantially the same manner of such use and solely for the period 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 use of Seller Marks during the period following the Closing shall inure to the benefit of Seller by or on the behalf of the Acquired Companies in connection with the Seller Transitional Trademarks prior to the Closing Date, including to the extent the Seller Transitional Trademarks are being used, the Acquired Companies shall use the Seller Transitional Trademarks in the same manner they were displayed prior to the Closing Date; (ii) in the event of a breach of this [Section 7.1\(b\)](#), the Acquired Companies shall promptly remedy such breach; and (iii) after the 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)

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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 by 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 in electronic records or systems, (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 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, cease and all use of the Business Trademarks and the Combination Mark (including names of Seller or its Controlled Affiliates); (ii) will not, and shall cause its Controlled Affiliates to, register or register, or authorize others to adopt, use, apply to register or register, any part thereof or any colorable imitation thereof (including any non-English language variation thereof), 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, or be done any act or thing that will in any way impair the rights of the Acquired Company 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 trademarks owned by Seller or its Controlled Affiliates (other than the Acquired Companies) as

(d) Notwithstanding the restrictions set forth in Section 7.1(c), the Acquired Companies hereby grant Seller and its Controlled Affiliates a limited license to use the trademarks 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)

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any goodwill generated by Seller's or its Controlled Affiliates' use of the Business Trademarks at Closing shall inure to the benefit of Acquired Companies; (ii) any products or services sold by Seller or its Controlled Affiliates in connection with the Business Trademarks shall be consistent with those used prior to the Closing Date, including with respect to quality standards and (iii) to the extent such marks are being used, Seller and its Controlled Affiliates shall continue to display the Business Trademarks as were displayed prior to the Closing Date. In the event Purchaser or an Acquired Company is required by Section 7.1(d), Seller and its Controlled Affiliates shall promptly remedy such violation by the Transitional Trademark End Date, Seller shall, and shall cause its Controlled Affiliates to, promptly and otherwise eliminate all Business Trademarks (including the Combination Mark, but excluding the Standalone Go Beyond Mark) from all materials (whether written, electronic or otherwise) in Seller's or its Controlled Affiliates' possession. Purchaser shall have the right to terminate the foregoing license, effective as of the Closing Date, 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 a written default prior to the expiration of such thirty (30) day notice period. Notwithstanding the foregoing, Seller shall not be intended to prohibit any use (or require any destruction, removal, striking or covering) of any Business Trademarks IP (A) that are included in Seller's or its Controlled Affiliates' records 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 are 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 Company, 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 Date until the end of the seventh (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, records, books, records and documents in the possession of Seller or its Controlled Affiliates or each Acquired Company and their Affiliates and the Business





restrictive time period will be deemed to be the longest period permissible under the Legal Requirements and 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, assumptions, instruments, and shall take such reasonable actions as may be necessary to make good on 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 grant any accommodation (financial or

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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 claims 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 such funds or asset to Seller or its designated Affiliate (and the Company or its designated Affiliate shall accept such funds or asset for no consideration and net of Seller's reasonable out-of-pocket costs incurred to effect such 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 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 are to 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 (including the Acquired Companies) (i) receives any funds (including any refund or other amount relating to any pre-Closing claims 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 other than 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 such funds or asset to Seller or its designated Affiliate (and Seller or its designated Affiliate shall accept such funds or asset for no additional consideration and net of Purchaser's reasonable out-of-pocket costs incurred to effect such remittance or transfer). Until the remittance or transfer of any such funds or asset is effected, Purchaser shall, through its applicable Affiliate to, preserve the value of, and hold in trust for the use and benefit of, Seller 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 are to 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 give and subsequently keep the other informed on a reasonably current basis of any material change, event, or condition upon its becoming aware of the occurrence or existence of any change, event, or condition 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 Seller or any of its Controlled Affiliates that would reasonably be expected to have a Purchaser Material Adverse Effect or (c) will, or would reasonably be expected to 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 Affiliate to) make the election under Section 338(h)(10) of the Code (and any corresponding elections under applicable Treasury Regulations) with respect to the Acquired Companies (the "[Section 338\(h\)\(10\) Elections](#)").

(b) Seller and Purchaser shall (and shall cause their relevant Affiliate to) file 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 Closing of the Final Purchase Price pursuant to [Section 2.4\(d\)](#) but in no event later than 90 days after the Closing, Seller shall prepare and deliver to Purchaser an allocation of the applicable "Aggregated Allocation" (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 [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 notifies Seller in writing of any objection to such allocation within the time period specified in [Section 8.8](#), the Election Allocation shall be subject to the procedures set forth in [Section 8.8](#).

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Purchaser and Seller shall cooperate in good faith to resolve any disputed items. If there is a dispute over an 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 Election Allocation, as finally determined pursuant to the procedures set forth in [Section 8.8](#), shall be conclusive and binding on Purchaser and Seller.

(d) Seller and Purchaser shall (and shall cause their relevant Affiliate to) file all state and local Tax Returns in a manner consistent with the Section 338(h)(10) Elections. Seller shall be understood that the "Adjusted Grossed-Up Basis" as described in Treasury Regulations shall be applied to the extent required under such Treasury Regulations with respect to items such as Purchaser's Tax Return or in connection with a determination required pursuant to a "determination" as defined in Section 1313(a) of the Code (a determination under 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 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 (taking into account any valid extension of a required filing date) in a manner consistent with past practices of the Acquired Companies, except as otherwise provided in the Legal Requirements. For the avoidance of doubt, Seller shall pay, or cause to be paid, the taxes on the 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 Returns of 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 (or any portion thereof) already filed on or prior to the date that the Final Closing Statement becomes final and binding. Each Purchaser-Filed Tax Return shall be a "Purchaser-Filed Tax Return". Each Purchaser-Filed Tax Return shall be prepared in a manner consistent with past practices of the Acquired Companies, except as otherwise provided in the Legal Requirements.

(3) Any Purchaser-Filed Tax Return shall be provided in draft form (including any supporting statements or other supporting documentation reasonably requested) at least 10 business days before the date of filing of the Tax Return (in the case of any Tax Return that is not an Income Tax Return, as soon as practicable (including any applicable valid extension) of such Purchaser-Filed Tax Return).

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have the right to review and comment on such Purchaser-Filed Tax Return. Seller shall respond in good faith to any comments thereto that are provided by Seller to Purchaser in writing within 10 business days of the date of receipt of such comments (or such longer period as the parties may agree in writing). In the case of any Tax Return that is not an Income Tax Return, as soon as practicable (including any applicable valid extension) of such Purchaser-Filed Tax Return, Seller shall cooperate in good faith to resolve any disputed items with respect to any such Tax Return. If Purchaser and Seller fail to resolve any disputed items within the time period specified above, Seller shall submit such disputed items to the Settlement Accountant for resolution. Seller shall cooperate in good faith to 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 ruling of the Internal Revenue Service under Section 1313(a) of the Code (or any comparable provision of state, local or foreign law) or any extension of the statute of limitations relating to a Pre-Closing Tax Period of a taxable period, Seller shall not, after the Closing until the Final Closing Statement becomes final and binding, amend any Tax Return related to a Pre-Closing Tax Period of a taxable period, or take any action to extend the time to file Tax Returns consistent with the provisions of the statute of limitations, to the extent such aforementioned actions would reasonably be expected to adversely affect the tax liability of the Acquired Companies and (2) without the prior written consent of Seller (not to be unreasonably withheld).

(b) To the extent permitted by Legal Requirements, each of the Acquired Companies shall file its Tax Returns for 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 Taxes 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. Where it is necessary for purposes of this Agreement to apportion Taxes with respect to the Acquired Companies for a Straddle Period, such Taxes shall be apportioned on the basis of an interim closing of the books, except that (i) exemptions, allowances, and credits shall be apportioned on the basis of the books as of the end of the Straddle Period.

annual basis and (ii) Taxes (such as real or personal property Taxes) that are imposed, be allocated ratably across the entire Straddle Period on a per diem basis. The federal income Tax Return of the Acquired Companies for the Tax period ending 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 or any analogous provision of state, local or foreign Legal Requirements.

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**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 (or pursuant to a plan in existence on the Closing Date) that would reasonably be expected to increase the amount of Specified Sales Taxes (or Taxes), (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 Acquired Companies for any Pre-Closing Tax Period or Straddle Period, (d) make any change in accounting method 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 (or pursuant to a plan in existence on the Closing Date) that would reasonably be expected to increase the amount of Specified Sales Taxes (or Taxes). Notwithstanding the foregoing, the prohibitions described in clauses (b), (c) and (e) 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 in respect of a Purchaser Consolidated Return. Purchaser shall have the right to control, at Seller's expense, any such Tax Proceeding that relates to Specified Sales Taxes. Seller shall have the right to control, at Purchaser's expense, and Seller shall not settle or compromise any such Tax Proceeding in respect of a Purchaser Consolidated Return (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 any Tax Matters, 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 the provision of records and information reasonably relevant to any such Tax Proceeding, reasonable cooperation with the requests of the applicable Tax Authority (including the provision of records and information reasonably relevant to any such Tax Proceeding), (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 or their respective Representatives with any Consolidated Return (or copy thereof), (ii) Seller 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 information or records of which it reasonably believes in good faith would result in the waiver of any legal privilege or work-product protection.

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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 or any other applicable law, including any agreements entered into 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,



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

(b) In the event of termination of the employment of any Transferred Employee during the Termination Period, Purchaser shall provide, or shall cause to be provided, to such Transferred Employee a severance payment that is at least as favorable as 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 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 the same as the service provided by 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 under the 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, for the plan year in which the Closing Date occurs, (i) use commercially reasonable efforts to provide the same level of health and welfare coverage of such Transferred Employees due to pre-existing conditions as such employees were entitled to under 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 was provided under a comparable Benefit Plan that is a group health plan immediately prior to the Closing Date and (ii) credit each such Transferred Employee with all deductible payments, co-payments and other out-of-pocket costs incurred by such employee under any Benefit Plan that is a group medical plan prior to the Closing Date for the purpose of determining the extent to which any such employee is eligible for such coverage under the applicable deductible and whether such employee has reached the corresponding maximum out-of-pocket limit under the comparable group medical plan of Purchaser or any of its Subsidiaries for such year.

9.3 Seller Benefit Plan Participation; M&A Qualified Beneficiaries; Certain Transferred Employees. Effective as of the Closing Date (or such later date as provided under the terms of the Acquired Company Benefit Plan under Section 9.1), the Transferred Employees shall no longer actively participate in the Seller Benefit Plan. Notwithstanding the foregoing, Seller or its Controlled Affiliates shall retain all liabilities under the Seller Benefit Plan for 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 long-term care benefits. For purposes of this Section 9.3, the following claims shall be deemed to be included in the Seller Benefit Plan: (i) 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 On-Balance Sheet Pension Plan (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 Seller Benefit Plan 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 ER 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) 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") a Purchaser 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 to do so 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, (ii) cause the employees of Seller or its Controlled Affiliates (other than the employees identified 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 (iii) 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 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 if such contributions had been made, 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 contributions to the Seller 401(k) Plan after the Closing or (ii) at the discretion of the Seller, allowing such

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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 all 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) due on the payment due dates that fall prior to the Closing Date and (ii) Purchaser or its applicable entity (including, after the Closing, an Acquired Company) shall timely make to the trust under the Business Pension Plan all 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 the payment due dates, in each case, regardless of the plan year for which such minimum required contributions are due.

9.5 FSA's. 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 of the Seller Disclosure Schedule (the “Incentive-Based Programs” Employee (the “Assumed Incentive Amount”), which shall be paid at such time as the Transferred Employees under the applicable Incentive-Based Program. The amount shall be determined for each Transferred Employee (a) based on target performance levels for the 12 months of the applicable fiscal year and (b) based on the most recently approved bonus plan as of the Closing Date if the Closing occurs at any time other than the first three (3) 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 “Tax Amount”) 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 through the cash incentive plans or programs maintained by Purchaser and its Affiliates or otherwise, at 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

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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 Seller Disclosure Schedule and in which the Transferred Employee participates as of the Closing Date. 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 used such amounts in the same manner and upon the same terms and conditions of the applicable policies of any 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 approved by Purchaser, Purchaser shall not make any written or oral communications to Company Employees regarding 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, contractor or other person) of Seller or any of its Controlled Affiliates 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 Seller Disclosure Schedule and in which the Transferred Employees participate as of the Closing Date (the “Compensation Plan”). Each Mirror Plan shall be subject to Purchaser’s review and approval. Purchaser shall cause the Transferred Employees to be included in the 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 be subject to Purchaser’s review and approval. Purchaser shall provide to Purchaser details relating to the accounts and liabilities of each Transferred Employee and all information necessary to administer the Mirror Plans, including the









commences a Proceeding against Purchaser for the Purchaser Termination reasonable and documented out-of-pocket costs and expenses (including attorney such Proceeding, together with interest on the amount of the Purchaser Termination Fee required to be made until the date of payment at a rate per annum equal to the prime rate (as published in the Wall Street Journal)).

(d) Except for Seller's right of specific performance to the extent Seller has the right to receive the Purchaser Termination Fee when payable pursuant to Section 11.4(c), Seller, its Affiliates and their respective Representatives against Purchaser or any of its future Affiliates and their respective Representatives, and the respective successors and assigns of the Seller, the other Transaction Agreements or the Transactions, including for any kind (whether in tort, contract or otherwise) suffered or incurred by Seller or any of its future Affiliates, their respective Representatives, and the respective successors and assigns of the Seller, 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 its future Affiliates, their respective Representatives, and the respective successors and assigns of any of the foregoing Persons, to bring any Proceeding against Purchaser or any of its future Affiliates, their respective Representatives, and the respective successors and assigns of any of the foregoing Persons, seeking such Liabilities or Losses suffered or incurred as a result of or under, or caused by, the breach of this Agreement by Purchaser and (y) upon the payment of the Purchaser Termination Fee, Seller, its future Affiliates, their respective Representatives, and the respective successors and assigns of any of the foregoing Persons shall not have any further Liability or other obligation relating to or arising out of this Agreement or the Transactions; provided, that Purchaser

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shall remain obligated with respect to the Non-Disclosure Agreement, pursuant to Section 11.4(d) (with respect to the confidentiality, reimbursement and indemnification obligations of Seller, its current and future Affiliates, their respective Representatives, and the respective successors and assigns of any of the foregoing Persons are intended third party beneficiaries of this Section 11.4(d)).

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

## ARTICLE XII

### MISCELLANEOUS PROVISIONS

12.1 Expenses. Whether or not the Transactions are consummated, unless otherwise specified in the Transaction Agreements, each party shall be responsible for its own expenses in connection with this Agreement and the Transactions, including the fees and expenses of its legal counsel.

12.2 Survival. Except as set forth below in this Section 12.2, none of the representations and warranties made in this Agreement or in any other agreement, certificate or other document executed by the parties in connection with the Closing and all such representations and warranties, including any claim arising automatically upon the Closing; provided, that such termination shall not release a party from liability for in the case of Fraud, the sole and exclusive remedy of Purchaser in respect to a breach of representation or warranty is the right to terminate this Agreement prior to the Closing. The covenants and agreements contained in this Agreement shall survive the Closing and no party shall be released from its obligations from and after the Closing. Subject to Section 8.9 with respect to the Tax matters discussed in Section 8.9.

agreements contained in this Agreement and to be performed or complied with after accordance with their respective terms. Notwithstanding anything herein to the contrary construed to affect or limit the ability of Purchaser or its Affiliates (including the Acquirer) to rely on the terms of the Acquirer's R&W Insurance Policy.

12.3 Interpretation. Except as otherwise explicitly specified to the contrary in this Agreement, a schedule, annex or exhibit means a Section or Article of, or schedule, annex or exhibit to, an agreement is specified, (b) the word "including" (and words of similar import) references to a particular statute or regulation include all rules and regulations and any successor statute, rules or regulation, in each case, as amended or otherwise modified.

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to time (unless otherwise expressly provided), (d) words in the singular or plural form shall be held to include the other gender as applicable, (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, and in the table of contents to this Agreement are for reference purposes only and shall not be used for 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 be read to mean "and/or", (l) the words "writing," "written" and comparable terms refer to printing, typing and other electronic media) in a visible form, (n) if the last day of the time period for the giving of notice required 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 specified, the words "made available to," "delivered to," "provided to" or "furnished to" means such documents have been posted to, or provided in, the Data Room and made available to all of its Representatives at least one (1) hour prior to the execution and delivery of this Agreement and if an ambiguity or question of interpretation should arise, this Agreement and the schedules, annexes and exhibits hereto 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 (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 Team Agreement and the other Transaction Agreements, including the other schedules specifically referred to herein and therein, constitute the entire agreement between the parties regarding the subject matter hereof, and supersede all prior agreements and understandings between the parties with respect to the subject matter hereof.

12.5 Amendment and Waivers. This Agreement shall not be amended or modified by any supplemental agreement or amendment signed by Seller and Purchaser. No failure to exercise any 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 as a waiver or variation of it or preclude its exercise at any subsequent time. Notwithstanding anything to the contrary contained hereof, the Section 12.8(c), Section 12.9 and Section 12.12(c) (collectively, the "DFS Provision");

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

12.6 Successors and Assigns. This Agreement shall bind and inure to the successors and permitted assigns; provided, however, that no party may assign any prior written consent of the other party, and any assignment in violation of the Notwithstanding the foregoing, and subject to the last sentence of this Section 12 may assign this Agreement or all of its rights or obligations hereunder to any of its consent (but with notice to Purchaser), (b) Purchaser (or its Purchaser Design Agreement or all of its rights or obligations hereunder to any of its Affiliates with notice to Seller) and (c) from and after the Closing Date, Purchaser (or its Affiliate portion of its rights and obligations pursuant to this Agreement to any Debt Financing assignment does not relieve Purchaser of its obligations hereunder) under the purpose of creating a security interest herein or otherwise assigning collateral. Notwithstanding anything to the contrary in this Section 12.6, no assignment obligations hereunder.

12.7 Governing Law. This Agreement, the rights of the parties and all Proceedings or in connection herewith, will be governed by and construed and enforced in a Delaware, without giving effect to any choice or conflict of law provision or rule (or other jurisdiction) that would cause the application of the laws of any other jurisdiction.

12.8 Jurisdiction; Venue; Service of Process.

(a) Each of the parties, by its execution hereof, hereby (i) irrevocably elects the Delaware Chancery Court (or, if the Delaware Chancery Court declines to accept jurisdiction, any state court of the State of Delaware) as the court of jurisdiction for any of the parties relating to or arising in whole or in part under or in connection with this Agreement or the Transactions, (ii) waives to the extent not prohibited by applicable law, by way of motion, as a defense or otherwise, in any such Proceeding, any claim of jurisdiction of the above-named courts, that its property is exempt or immune from attachment, seizure, or execution in any Proceeding brought in one of the above-named courts should be dismissed on grounds that the Proceeding should be transferred or removed to any court other than one of the above-named courts, and (iii) agrees not to commence any other Proceeding in any other court other than one of the above-named courts. Notwithstanding anything to the contrary in any other Transaction Agreement or the subject matter hereof or thereof may not agree not to commence any such Proceeding other than before one of the above-named courts, a party may commence any Proceeding in a court other than one of the above-named courts for the purpose of enforcing an Order issued by one of the above-named courts.

(b) Each of the parties (i) consents to service of process in any manner permitted by Delaware law, (ii) agrees that service of process in accordance with the foregoing clause (i) or made by registered or certified mail, return receipt requested, will constitute good and valid service of process in any such Proceeding, and (iii) agrees not to assert (by way of motion, as a defense or otherwise) in any such Proceeding any claim that service of process in accordance with the foregoing clause (i) or (ii) does not constitute good and valid service of process. Notwithstanding anything to the contrary in any other Transaction Agreement or the subject matter hereof or thereof may not agree not to commence any such Proceeding other than before one of the above-named courts, a party may commence any Proceeding in a court other than one of the above-named courts for the purpose of enforcing an Order issued by one of the above-named courts.

(c) Notwithstanding anything in this Agreement to the contrary, no party shall bring, or support, any action, whether at law or in equity, whether in contract or tort, in any court of the United States or any state or territory thereof, or in any court of any other country, in connection with this Agreement or any of the Transaction Agreements or any of the transactions contemplated thereby, anywhere other than in a court of England or Wales or any court of the United Kingdom, and each of the parties (on behalf of itself and its Affiliates) irrevocably waives, and agrees not to assert by way of motion, defense or otherwise, any claim that such court does not have jurisdiction over the party or that the party is not subject personally to the jurisdiction of such courts, that its property is





(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 Purchas this Agreement or any documents or instructions delivered in connection with this based on, in respect of or by reason of such obligations or their creation.

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

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12.13 The Seller Disclosure Schedule, Schedules, Annexes and Exhibits. schedules, annexes and exhibits attached to this Agreement shall be construed Agreement to the same extent as if the same had been set forth verbatim hereir Seller set forth in this Agreement are made and given subject to the disclosures cor subject to this Section 12.13 and as supplemented by the front matters of the § information in the Seller Disclosure Schedule will not be construed as an admissic disclosed, that the matter underlying such information did not arise in the ordir consistent with past practice, that such information is material to the busines otherwise) of Seller, any Acquired Company or the Business or that any Material establish any standard of materiality for any purpose whatsoever. Each item s Schedule, of the Seller Disclosure Schedule shall be deemed to be disclosed on 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 w Section, of this Agreement to which such matter is specifically cross referenced or it is reasonably apparent on its face that such disclosure applies. The headings co are inserted for convenience only and shall not be considered in interpreting or con this Agreement.

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

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](mailto:alice.eldridge@baesystems.com)  
[katherine.h.brown@baesystems.com](mailto:katherine.h.brown@baesystems.com)

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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](mailto:sarkis.jebejian@kirkland.com)  
[edward.lee@kirkland.com](mailto:edward.lee@kirkland.com)  
[steven.li@kirkland.com](mailto: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](mailto:CBaker@ball.com)  
[Kate.Kimball@ball.com](mailto: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](mailto:Shilpi.Gupta@skadden.com);  
[David.Clark@skadden.com](mailto: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 respect to Skadden and Axinn), a Person who is not a party to this Agreement shall and this Agreement is not intended to give any Person other than the parties to this Agreement any rights hereunder.

12.16 Provision Regarding Legal Representation. It is acknowledged by each party and Axinn to act as its counsel in connection with the Transactions

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

12.17 No Other Duties. The only duties and obligations of the parties under this Agreement shall be set forth in this Agreement, and no other duties or obligations shall be implied in fact, law or equity, including the principle of fiduciary obligation.

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

12.19 Public Announcements. None of Seller or its Controlled Affiliates shall issue or cause the publication of any press release or other public communication in respect of this Agreement or the Transactions without the prior written consent of Seller and its Affiliates, on the one hand, and Seller and its Affiliates, on the other hand, (which consent shall not be unreasonably withheld, conditioned or delayed), except as may be required by applicable law, stock exchange rules or as the disclosing party deems necessary (including, without limitation, applicable foreign securities laws) filing requirements, in which case the party shall file such announcement or other public communication in accordance with such requirements.

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Seller and its Affiliates, on the one hand, and Seller and its Affiliates, on the other hand, shall use reasonable efforts to provide the other party a reasonable opportunity to review any announcement or other public communication in advance of such publication; provided, however, that Seller and its Affiliates, on the one hand, and Seller and its Affiliates, on the other hand, shall not be prohibited from making any announcement in compliance with the requirements of applicable law, stock exchange rules or as the disclosing party deems necessary (including, without limitation, applicable foreign securities laws) filing requirements, in which case the party shall file such announcement or other public communication in accordance with such requirements. Notwithstanding the foregoing, Seller and its Affiliates, on the one hand, and Seller and its Affiliates, on the other hand, shall not be prohibited from making any announcement in compliance with the requirements of applicable law, stock exchange rules or as the disclosing party deems necessary (including, without limitation, applicable foreign securities laws) filing requirements, in which case the party shall file such announcement or other public communication in accordance with such requirements, to the extent that such party reasonably determines in good faith that such announcement is necessary and in the best interests of the party, and to the extent the content of which is consistent with that of any prior public announcement or other public communication (including, without limitation, any announcement or other public communication filed pursuant to Section 12.19 or (b) to the extent the contents of such press release, public announcement or other public communication have previously been released publicly by a party or are consistent in all material respects with any announcement or other public communication that have previously been released publicly, in each case, without violation of the requirements of applicable law, stock exchange rules or as the disclosing party deems necessary (including, without limitation, applicable foreign securities laws) filing requirements, in which case the party shall file such announcement or other public communication in accordance with such requirements.

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 copies 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) non-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 consents in writing to such amendment, 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 any 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

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or other rights that Purchaser Guarantor or Purchaser (or any Purchaser Designee) may have as a defense of payment or performance); provided, however, that, notwithstanding anything to the contrary herein, 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, and to consummate the terms of this Agreement and each other Transaction Agreement to which it is a party and to consummate the performance by Purchaser Guarantor 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 rescinded.

(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 an enforceable obligation of 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 shall survive the complete, irrevocable and indefeasible performance of the 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 (as Purchaser Designee) under this Agreement. Seller may

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resort to Purchaser Guarantor for payment and performance of the Obligations if Seller has not proceeded against Purchaser (or any Purchaser Designee) with respect to the Obligations. If Seller has, at any time, proceeded against Purchaser Guarantor and Purchaser (or any Purchaser Designee) with respect to the Obligations, Seller shall not 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 recovered or must otherwise be returned by Seller upon the insolvency, bankruptcy or liquidation of 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 shall be bound by this Agreement for purposes of any provisions other than this Section 12.21.

*[Signature pages follow.]*

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IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date and place set forth 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

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Schedule 4.8 of the Seller Disclosure Schedule

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Schedule 4.9 of the Seller Disclosure Schedule

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Schedule 4.10 of the Seller Disclosure Schedule

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Schedule 4.11 of the Seller Disclosure Schedule

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Schedule 4.12 of the Seller Disclosure Schedule

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Schedule 4.13 of the Seller Disclosure Schedule

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Schedule 4.14 of the Seller Disclosure Schedule

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Schedule 4.15 of the Seller Disclosure Schedule

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Schedule 4.18 of the Seller Disclosure Schedule

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Schedule 4.19 of the Seller Disclosure Schedule

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Schedule 4.20 of the Seller Disclosure Schedule

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Schedule 4.21 of the Seller Disclosure Schedule

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Schedule 4.22 of the Seller Disclosure Schedule

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Schedule 6.1 of the Seller Disclosure Schedule

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Schedule 6.5 of the Seller Disclosure Schedule

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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

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**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 and voting rights, and for such consideration as shall be stated in or determined in accordance with the articles 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 transferred by the books of the corporation 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 transferee shall be deemed to be the holder of the shares.

stock shall be subject to the laws of the State of Indiana. The board of directors shall have the authority to employ 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 on the first (1st) Wednesday of the interval after the close of the corporation's last fiscal year as may be designated from time to time by the board of directors for the election of directors of the corporation, and for the transaction of such other business as may lawfully 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.

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**Section D. Notice of Shareholder Nominations of Directors.** Only persons who are qualified to be elected as directors 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 before the anniversary date of the immediately preceding annual meeting of shareholders; provided that 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 the date on which the annual meeting was made, whichever first occurs. In no event shall the public disclosure of a nomination 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 be in writing and the shareholder proposes to nominate for election as a director and as to the shareholder 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 and (iv) the person that would be required to be disclosed in a proxy statement or other filings made in connection with the 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)

shares owned beneficially but not of record by such person, (vi) whether and the transaction or series of transactions has been entered into by or on behalf of, (vii) understanding (including any derivative or short positions, profit interests, options made, the effect or intent of which is to mitigate loss to or manage risk or benefit of decrease the voting power of, such person with respect to any share of stock of the the shareholder giving the notice, the name and address of any other shareholder reelection as a director on the date of such shareholder's notice, (viii) a description

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

Additionally, without limiting the other provisions and requirements of this Section if any shareholder (i) provides notice pursuant to Rule 14a-19(b) under the Exchange Act comply with the requirements of Rule 14a-19(a)(2) and Rule 14a-19(a)(3) under the shall disregard any proxies or votes solicited for such shareholder's nominees. If a shareholder provides notice pursuant to Rule 14a-19(b) under the Exchange Act to the corporation, no later than five business days prior to the applicable meeting, the requirements of Rule 14a-19(a)(3) under the Exchange Act.

No person shall be eligible for election as a director of the corporation under the procedures set forth in this Section D (including the provision of the information in the preceding paragraph). If the Chairman of the meeting determines that a nomination under the foregoing procedures, the Chairman shall declare to the meeting that the nomination shall be disregarded.

Notwithstanding anything in the third paragraph of this Section D to the contrary, directors to be elected to the board of directors of the corporation is increased by the corporation naming all of the nominees for director or specifying the size of the board of directors this Bylaw shall also be considered timely, but only with respect to nominees for any director if it shall be delivered to the Secretary at the principal executive offices of the corporation on the tenth (10th) day following the day on which such public disclosure is first made.

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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) or 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) 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

In addition to any other applicable requirements, for business to be properly brought before the annual meeting by a shareholder, such 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 executive offices of the corporation not less than ninety (90) days nor more than one hundred (100) days before the anniversary date of the immediately preceding annual meeting of shareholders; provided, 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 the date on which the 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 in this section.

To be in proper written form, a shareholder's notice to the Secretary must include: (i) a statement of the business that the shareholder proposes to bring before the annual meeting and a brief description of the business; (ii) the reasons for conducting such business at the annual meeting; (iii) the name and record address of the shareholder giving the notice and any Shareholder Associated Person, (iv) the name and record address of each person who is a nominee holder for, and number of, shares owned beneficially but not of record by the shareholder, and number of, shares owned beneficially but not of record by the nominee holder for, and number of, shares owned beneficially but not of record by the nominee holder for, to which any hedging or other transaction or series of transactions has been entered into, (v) the effect or intent of which is to mitigate loss to the shareholder or to increase or decrease the voting power of, such person with respect to the corporation, (vi) to the extent known by the shareholder giving the notice, the name and record address of each person supporting the proposal of business on the date of such shareholder's notice, (vii) the nature and extent of any understandings between or among such persons in connection with the proposal of business, (viii) the nature and extent of any material interest in such business and (ix) a representation that the shareholder or any person or by proxy at the annual meeting to bring such business before the meeting is not a director, officer, or employee of the corporation. This paragraph shall be supplemented by the shareholder giving the notice not later than the date of the meeting as of the record date.

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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 set forth in the immediately preceding paragraph); provided, however, that, on or after the date of the annual meeting in accordance with such procedures, nothing in this section shall prevent the discussion by any shareholder of any such business. If the Chairman of an annual meeting determines that business not properly brought before the annual meeting in accordance with the foregoing procedures, the Chairman may, at the meeting, direct that the business was not properly brought before the meeting and such business shall not be considered for action at the meeting.

**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, 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 in 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 if he or she is more than seventy-five (75) years of age on the day of election or reelection. A director who attains the age of seventy-five (75) years during his or her term of office shall be eligible to serve only until the annual meeting of shareholders following 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 is “withheld” from his or her election shall, within ten (10) days of the shareholder vote, tender his or her written resignation to the chairman of the Nominating/Corporate

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Governance Committee (the “Committee”). As used in this Section C, an “uncontested election” is an election in which the only nominees are persons nominated by the

The Committee will consider such tendered resignation and, within sixty (60) days of the shareholder vote, will make a recommendation to the board of directors concerning the resignation. In determining its recommendation to the board, the Committee will consider all factors and alternatives as the board deems relevant.

The Committee also will consider a range of possible alternatives concerning the resignation or rejection of the resignation coupled with a commitment to seek to address the factors and alternatives as the board deems relevant.

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

Following the board's decision on the Committee's recommendation, the corporation will publicly disclose, in a Current Report on Form 8-K, the board's decision, together with an explanation of the process 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 recomm the creation of an Ad Hoc Committee.

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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 mee 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 t 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



(d) The briefing of the directors at meetings of the board of directors affairs 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 set forth 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 the 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 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 periodically be assigned to them by the board of directors, the chairman of the board, and in the absence or disability of the president, and at the request of the chairman of the board or the request of the vice-chairman of the board, or in his absence or disability at the request of the president in the order designated by the chairman of the board, or in his absence or disability by the board of directors, shall perform all of the duties of the president. When acting they shall have all of the powers of and be subject to the restrictions upon the president or as a chairman of, any standing or special committee of which the president is a member or an officer.

**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.

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(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 by these bylaws.

(4) Keep a register of the post office address of each shareholder, which shall be furnished to the 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 the time he is assigned to him by the board of directors.

(7) All acts affecting the treasurer's duties and responsibilities shall be subject to the supervision of 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.

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(2) Direct the preparation of financial reports required by federal, state and local authorities, and the preparation of quarterly and annual financial statements and reports to shareholders, the Securities and Exchange Commission and other interested parties.

(3) Provide primary contact for the corporation's independent accountants and auditors, and represent management to the corporation's domestic and international subsidiaries.

(4) Perform and/or direct technical accounting and financial reporting research 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 the time he is 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 supervision of the corporation's chief financial officer.

**Article 5  
Indemnification**

**Section A. Indemnification of Directors and Officers - General.** Certain persons, as specifically defined in Section F of this Article Five.

(1) The corporation shall indemnify an individual made a party to a proceeding against the corporation against liability incurred in connection with a proceeding to which the individual was made a party.

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 t 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.

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### **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 terms of this Article Five who are at the time parties to the proceeding may not be voted on the

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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 above (which 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 such person has theretofore selected Independent Counsel pursuant to this Section C and such Independent Counsel is approved by the corporation, legal counsel approved by a resolution or resolutions of the board of directors of the corporation prior to a change of control of the corporation shall be deemed to have been so 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 legal counsel 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 fee 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 of such indemnification 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, employee or agent 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 any proceeding commenced after such repeal or modification 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 jurisdiction that does not have 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 name of the corporation, 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's) 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 that period (or a majority of those so 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 plan maintained by the corporation or any of its subsidiaries or (ii) a trust or other entity, if 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 ceases.

(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. 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 other amount (including 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.

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(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 "Ball Corporation" in the center thereof, and the words "Corporate Seal," in the center thereof, so mounted on a metal disc with 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 of the corporation at an 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 court of competent jurisdiction may have jurisdiction over such claims, including but not limited to: (a) any action asserted against or on behalf of the corporation or brought on behalf of, or in the name of the corporation; (b) any action asserted against or on behalf of any director, officer, employee, or agent of the corporation to the corporation or brought on behalf of, or in the name of the corporation; (c) any action asserting a claim under the corporation's Amended Articles of Incorporation and any amendment or amendments thereto; (d) any action otherwise relating to the internal affairs of the corporation; *provided, however*, that 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 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 this Article 8 is filed in a court other than a court located within the State of Indiana, the name of any shareholder, such

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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 (an "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.

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OBLIGOR GROUP SUBSIDIARIES OF BALL CORP  
June September 30, 2024

The following is a list of Obligor Group subsidiaries of Ball Corporation

Name

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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.

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#### 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 (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 of the registrant's internal control over financial reporting, the registrant's auditors and the audit committee of the registrant's board of directors (or persons) that:
- 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 role in internal control over financial reporting.

Date: August 1, 2024 October 31, 2024

/s/ Dan W. Fisher  
Dan W. Fisher  
Chairman and Chief Executive Officer

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#### 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 misleading statement, and all statements made, in light of the circumstances under which such statements were made, not in connection with this 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 15c-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 period specified in the applicable securities exchange act's rules and regulations, particularly during the period in which this report is being prepared;
  - 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, and the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report and the effectiveness of the internal control over financial reporting, 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 that occurred during the most recent fiscal quarter (the registrant's fourth quarter in the case of an annual report) that has materially affected or is reasonably likely to 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 of the registrant's auditors and the audit committee of the registrant's board of directors (or persons) and the registrant's internal control over financial reporting, 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 role in the registrant's internal control over financial reporting.

Date: August 1, 2024 October 31, 2024

/s/ Howard H. Yu  
Howard H. Yu  
Executive Vice President

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**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 "Company"). I hereby certify pursuant to 18 U.S.C. Section 1350 as adopted by Section 906 of the Sarbanes—Oxley Act of 2002, to my best belief:

- (1) the Quarterly Report on Form 10-Q for the quarter ended June 30, 2024 September 30, 2024, which the 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, that appears in typed form within the electronic version of this written statement required by Section 906, 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—Oxle belief:

(1) the Quarterly Report on Form 10-Q for the quarter ended ~~June 30, 2024~~ ~~September 30,~~ Commission on ~~August 1, 2024~~ ~~October 31, 2024~~ ("Report"), fully complies with the require Exchange Act of 1934 as amended; and

(2) the information contained in the Report fairly presents, in all material respects, the fina 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 Se incorporated by reference into any filing of the Company under the Securities Act of 1933, as ame amended (whether made before or after the date of the Form 10-K), irrespective of any general incorp

A signed original of this written statement required by Section 906, or other document authenticating, that appears in typed form within the electronic version of this written statement required by Section 5 retained by the Company and furnished to the Securities and Exchange Commission or its staff upon re

**SAFE HARBOR STATEMENT UNDER THE PRIVATE SEC  
LITIGATION REFORM ACT OF 1995**

In connection with the safe harbor provisions of the Private Securities Litigation Reform Act of 1995 (the Refor important factors that could cause Ball's actual results to differ materially from those described in forward-looki statements may be made in several different contexts; for example, in the company's Form 10-K, 10-Q, 8-K an ("SEC"), quarterly and annual earnings news releases, quarterly earnings conference calls hosted by the comp the company's Annual Report and in other periodic communications with investors. As time passes, the relevar however, except as required by law, the company undertakes no obligation to publicly update or revise a information, future events, or otherwise. You are advised to consult any further disclosures and cautionary stat

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 changes in 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 an 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, hurricanes and floods; virus and disease outbreaks and responses thereto; acts of war, terrorism or other significant events resulting in 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; and 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, new product development and introductions by our competitors; and technology changes, including the effect of new technologies on our 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 manufacturing of metal containers, and legal challenges to the proprietary nature of such technology (or protect any unpatented proprietary knowledge).
  - Ball's ability or inability to adapt to fluctuating supply and demand and to have available sufficient production 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; supply 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 benefits; health care costs incurred in the countries in which Ball has operations; the ability to attract and retain talent; 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 on our business 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 interpretations.
- 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.

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## DISCLAIMER

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