

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

FORM 6-K

REPORT OF FOREIGN PRIVATE ISSUER  
PURSUANT TO RULE 13a-16 OR 15d-16  
UNDER THE SECURITIES EXCHANGE ACT OF 1934

For the month of July 2026

Commission File Number: 001-41448

**Gorilla Technology Group Inc.**  
(Translation of registrant's name into English)

**Meridien House**  
**42 Upper Berkeley Street**  
**Marble Arch**  
**London, United Kingdom W1H 5QJ**  
(Address of principal executive offices)

Indicate by check mark whether the registrant files or will file annual reports under cover of Form 20-F or Form 40-F:

Form 20-F ☒ Form 40-F ☐

**Explanatory Note**

On July 15, 2026, Gorilla Technology Group Inc., a Cayman Islands exempted company (the "Company"), entered into a securities purchase agreement (the "Purchase Agreement") with certain investors (the "Purchasers") relating to the private placement of \$125,000,000 aggregate principal amount of the Company's 7.50% Senior Unsecured Convertible Notes, Series B due 2031 (the "Notes" and such placement, the "Placement"). The Notes are convertible into ordinary shares of the Company, par value \$0.001 per share (the "Ordinary Shares"), at an initial conversion rate of 39.2425 Ordinary Shares per \$1,000 principal amount of Notes (equivalent to an initial conversion price of approximately \$25.4826 per Ordinary Share), subject to adjustment as described in the Indenture (as defined below). The Notes will mature on June 15, 2031, unless earlier converted, redeemed or repurchased, and will bear interest at a rate of 7.50% per annum, payable semi-annually in arrears on June 15 and December 15 of each year, beginning on December 15, 2026. Interest on the Notes is payable in cash or, at the Company's election, Ordinary Shares, subject to the terms and conditions set forth in the Indenture. The Purchase Agreement contains customary representations and warranties, conditions to closing, termination provisions and indemnification obligations, including for liabilities under the Securities Act of 1933, as amended.

The Notes were issued pursuant to an indenture, dated as of July 17, 2026 (the "Indenture"), by and between the Company and U.S. Bank Trust Company, National Association, as trustee, paying agent, registrar and conversion agent. The Indenture sets forth the terms of the Notes, including the conversion rights, redemption and repurchase rights, covenants, events of default and other provisions governing the Notes.

The closing of the Placement occurred on July 17, 2026 and the Company received net proceeds of approximately \$120.1 million, after deducting placement agent fees but before paying estimated offering expenses. The Placement was made pursuant to exemptions from registration set forth in Section 4(a)(2) of the Securities Act of 1933, as amended, and the rules and regulations thereunder (collectively, the "Securities Act") only to institutional "accredited investors" as defined in Rule 501(a)(1), (a)(2), (a)(3), (a)(7), (a)(8), (a)(9), (a)(12), or (a)(13) under the Securities Act.

In connection with the Placement, the Company entered into a Registration Rights Agreement (the "Registration Rights Agreement") with the Purchasers on July 17, 2026, pursuant to which the Company agreed to file a Registration Statement (the "Registration Statement") with the Securities and Exchange Commission (the "Commission") covering the resale of the Notes and the Ordinary Shares issuable upon conversion of the Notes (collectively, the "Registrable Securities"). Under the Registration Rights Agreement, the Company is required to file the Registration Statement with the Commission no later than the 30th calendar day following the date of the Registration Rights Agreement. The Company is required to use its reasonable best efforts to cause the Registration Statement to be declared effective by the Commission no later than the 60th calendar day following the date of the Registration Rights Agreement (or the 90th calendar day in the event of a "full review" by the Commission). The Registration Statement is required to be on Form F-3 (or, if the Company is not then eligible to use Form F-3, on another appropriate form).

If (i) the Company fails to file the Registration Statement by the required filing date, (ii) the Company fails to cause the Registration Statement to be declared effective by the required effectiveness date, (iii) prior to the effective date of the Registration Statement, the Company fails to file a pre-effective amendment and otherwise respond in writing to comments made by the Commission in respect of the Registration Statement within ten (10) calendar days after the receipt of comments by or notice from the Commission that such amendment is required in order for the Registration Statement to be declared effective, (iv) the Registration Statement registering for resale all of the Registrable Securities is not declared effective by the Commission by the required effectiveness date of the initial Registration Statement (provided that if the Registration Statement does not allow for the resale of Registrable Securities at prevailing market prices, the Company shall have been deemed to have not satisfied this clause) or (v) after the effective date of the Registration Statement, the Registration Statement ceases to remain continuously effective as to all Registrable Securities for more than 20 consecutive calendar days or more than 30 calendar days in any 12-month period (each, an "Event"), then the Company is required to pay to each holder, (or any assignee of such holder's rights under the Registration Rights Agreement in accordance with the terms thereof) an amount in cash, as partial liquidated damages and not as a penalty, equal to 1.0% of the proportion of the aggregate subscription amount paid pursuant to the Purchase Agreement in respect of all Notes issued thereunder that the aggregate principal amount of Registrable Securities then held by such Holder or assignee, as applicable, bears to the aggregate original principal amount of all Notes issued pursuant to the Purchase Agreement; provided that the maximum aggregate liquidated damages payable to a Holder under this Agreement shall be 5.0% of the aggregate subscription amount paid by such holder pursuant to the Purchase Agreement. If the Company fails to pay any partial liquidated damages pursuant to such provision in full within seven days after the date payable, the Company will pay interest thereon at a rate of 18% per annum (or such lesser maximum amount that is permitted to be paid by applicable law) to the holder, accruing daily from the date such partial liquidated damages are due until such amounts, plus all such interest thereon, are paid in full. The partial liquidated damages pursuant to such provision shall apply on a daily pro rata basis

for any portion of a month prior to the cure of an Event. For avoidance of doubt, if the Commission Staff reduces the number of Registrable Securities as contemplated in the Registration Rights Agreement, no liquidated damages pursuant to such provision shall be imposed. The Registration Rights Agreement also contains customary indemnification and contribution provisions.

On July 15, 2026, the Company also entered into a Placement Agency Agreement (the “Placement Agency Agreement”) with The Benchmark Company LLC (“Benchmark”), pursuant to which Benchmark appointed StoneX Financial Inc. as a co-placement agent (together with Benchmark, the “Placement Agents”) and the Placement Agents acted as the exclusive placement agents for the Company in connection with the Placement. The Company agreed to pay the Placement Agents a cash fee equal to (i) five percent (5.0%) of the initial \$50,000,000 of the gross proceeds from the Placement, (ii) three and one-half percent (3.5%) of gross proceeds in excess of \$50,000,000 up to and including \$100,000,000 and (iii) two and one-half percent (2.5%) of gross proceeds in excess of \$100,000,000. In addition, the Company agreed to reimburse the Placement Agents for up to \$125,000 of its fees and expenses in connection with the Placement. The Placement Agency Agreement contains customary representations, warranties, and agreements by the Company, customary conditions to closing, indemnification obligations of the Company, other obligations of the parties, and termination provisions.

In connection with the Placement, the Company and the directors and executive officers of the Company entered into lock-up agreements (the “Lock-Up Agreements”), which each provide for a lockup period ending on the earlier of (i) 90 days following the effectiveness of the Registration Statement and (ii) the date on which all the Notes have been fully repaid and/or converted into Ordinary Shares, subject to customary exceptions.

The foregoing descriptions of the Purchase Agreement, the Indenture, the Notes, the Placement Agency Agreement, the Lock-Up Agreements and the Registration Rights Agreement do not purport to be complete and are qualified in their entirety by reference to the full text of the Purchase Agreement, the Indenture, the form of Note, the Placement Agency Agreement, the form of Lock-Up Agreement and the form of Registration Rights Agreement, which are filed as Exhibits 99.1, 99.2, 99.3, 99.4, 99.5 and 99.6, respectively, to this Report of Foreign Private Issuer on Form 6-K and are incorporated by reference herein.

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## INCORPORATION BY REFERENCE

The information included in this Report of Foreign Private Issuer on Form 6-K, including exhibits 99.1, 99.2, 99.3, 99.4, 99.5 and 99.6 attached hereto, is hereby incorporated by reference into the Company’s Registration Statements on Forms F-3 (File Nos. [333-274053](#), [333-267838](#), [333-276708](#) and [333-296439](#)) and on Forms S-8 (File No. [333-275749](#) and [333-294405](#)) (including any prospectuses forming a part of such registration statements) and to be a part thereof from the date on which this Report of Foreign Private Issuer on Form 6-K is filed, to the extent not superseded by documents or reports subsequently filed or furnished.

On July 15, 2026, the Company issued a press release announcing the pricing of the Offering by the Company. This press release is furnished as Exhibit 99.7 to this Report of Foreign Private Issuer on Form 6-K and is not incorporated by reference into the Company’s Registration Statements on Forms F-3 and Forms S-8.

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## SIGNATURES

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

**Gorilla Technology Group Inc.**

Date: July 17, 2026

By: /s/ Jayesh Chandan  
Name: Jayesh Chandan  
Title: Chief Executive Officer  
(Principal Executive Officer)

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## EXHIBIT INDEX

| Exhibit | Description                                                                                                                       |
|---------|-----------------------------------------------------------------------------------------------------------------------------------|
| 99.1    | <a href="#">Securities Purchase Agreement</a>                                                                                     |
| 99.2    | <a href="#">Indenture, dated July 17, 2026, between the Company and U.S. Bank Trust Company, National Association, as trustee</a> |
| 99.3    | <a href="#">Form of Global Note (included in Exhibit 99.2)</a>                                                                    |
| 99.4    | <a href="#">Placement Agency Agreement, dated July 15, 2026, between the Company and The Benchmark Company, LLC.</a>              |
| 99.5    | <a href="#">Form of Lock-Up Agreement</a>                                                                                         |
| 99.6    | <a href="#">Form of Registration Rights Agreement (included in Exhibit 99.1)</a>                                                  |
| 99.7    | <a href="#">Press release dated July 15, 2026</a>                                                                                 |

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## SECURITIES PURCHASE AGREEMENT

This Securities Purchase Agreement (this “Agreement”) is dated as of July 15, 2026, by and among Gorilla Technology Group Inc., an exempt company incorporated under the laws of the Cayman Islands (the “Company”), and each purchaser identified on the signature pages hereto (each, including its successors and assigns, a “Purchaser” and collectively, the “Purchasers”).

WHEREAS, subject to the terms and conditions set forth in this Agreement and pursuant to Section 4(a)(2) of the Securities Act (as defined below), and Rule 506 promulgated thereunder, the Company desires to issue and sell to each Purchaser, and each Purchaser, severally and not jointly, desires to purchase from the Company, securities of the Company as more fully described in this Agreement.

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants contained in this Agreement, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Company and each Purchaser agree as follows:

### ARTICLE I DEFINITIONS

1.1 Definitions. In addition to the terms defined elsewhere in this Agreement: (a) capitalized terms that are not otherwise defined herein have the meanings given to such terms in the Convertible Notes (as defined herein), and (b) the following terms have the meanings set forth in this Section 1.1:

“Action” shall have the meaning ascribed to such term in Section 3.1(k).

“Affiliate” means any Person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a Person, as such terms are used in and construed under Rule 405 under the Securities Act.

“Board of Directors” means the board of directors of the Company.

“Business Day” means any day other than Saturday, Sunday or other day on which commercial banks in The City of New York are authorized or required by law to remain closed; provided, however, for clarification, commercial banks shall not be deemed to be authorized or required by law to remain closed due to “stay at home”, “shelter-in-place”, “non-essential employee” or any other similar orders or restrictions or the closure of any physical branch locations at the direction of any governmental authority so long as the electronic funds transfer systems (including for wire transfers) of commercial banks in The City of New York are generally open for use by customers on such day.

“Closing” means the closing of the purchase and sale of the Securities pursuant to Section 2.1.

“Closing Date” means the Trading Day on which the Closing occurs.

“Commission” means the United States Securities and Exchange Commission.

“Company Cayman Counsel” means Travers Thorp Alberga.

“Company U.S. Counsel” means Pillsbury Winthrop Shaw Pittman LLP.

“Company Equity Plan” means any stock or option plan established for the purpose of issuing Ordinary Shares or options to employees, consultants, advisors, officers or directors of the Company for services rendered to the Company, which has been duly adopted by a majority of the non-employee members of the Board of Directors or a majority of the members of a committee of non-employee directors.

“Conversion Price” shall have the meaning ascribed to such term in the Indenture.

“Convertible Notes” or “Notes” means the Convertible Notes issued by the Company to the Purchasers hereunder, in the form of Exhibit A of the Indenture.

“Disclosure Schedules” means the disclosure schedules to this Agreement delivered concurrently herewith.

“Disclosure Time” means (i) if this Agreement is signed on a day that is not a Trading Day or after 9:00 a.m. (New York City time) and before midnight (New York City time) on any Trading Day, 9:01 a.m. (New York City time) on the Trading Day immediately following the date hereof and (ii) if this Agreement is signed between midnight (New York City time) and 9:00 a.m. (New York City time) on any Trading Day, no later than 9:01 a.m. (New York City time) on the date hereof.

“DTC” shall have the meaning set forth in Section 2.3(b)(ix).

“DTC Election Notice” shall have the meaning ascribed to such term in Section 4.17.

“DTC Eligibility” shall have the meaning set forth in Section 2.3(b)(ix).

“DTC Eligibility Notice” shall have the meaning ascribed to such term in Section 4.17.

“DVP” shall have the meaning ascribed to such term in Section 2.1.

“DVP Readiness Requirements” shall have the meaning ascribed to such term in Section 2.2(c).

“Effective Date” means the earliest of the date that (a) the initial Registration Statement has been declared effective by the Commission, (b) all of the Underlying Shares have been sold pursuant to Rule 144 or may be sold pursuant to Rule 144 without the requirement for the Company to be in compliance with the current public information required under Rule 144 and without volume or manner-of-sale restrictions, (c) following the one year anniversary of the Closing Date provided that a holder of the Underlying Shares is not an Affiliate of the Company or (d) all of the Underlying Shares may be sold pursuant to an exemption from registration under Section 4(a) (1) of the Securities Act without volume or manner-of-sale restrictions and counsel to the Company at such time has delivered to such holders a standing written unqualified opinion that resales may then be made by such holders of the Underlying Shares pursuant to such exemption which opinion shall be in form and substance reasonably acceptable to such holders.

“End Date” shall have the meaning ascribed to such term in Section 4.14.

“Evaluation Date” shall have the meaning ascribed to such term in Section 3.1(t).

“Exchange Act” means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

“Exempt Issuance” means the issuance of (a) Ordinary Shares or options pursuant to any Company Equity Plan, (b) securities upon the exercise or exchange of or conversion of any Securities issued hereunder and any securities upon the exercise of other securities exercisable or exchangeable for or convertible into Ordinary Shares issued and outstanding on the date of this Agreement, provided that such securities have not been amended since the date of this Agreement to increase the number of such securities or to decrease the exercise price, exchange price or conversion price of such securities (other than in connection with stock splits or combinations) or to extend the term of such securities and (c) Ordinary Shares underlying the Company’s outstanding Contingent Value Rights, provided that such Contingent Value Rights have not been amended since the date of this Agreement.

“FCPA” means the Foreign Corrupt Practices Act of 1977, as amended.

“IFRS” shall have the meaning ascribed to such term in Section 3.1(h).

“Indenture” means the Indenture in the form attached hereto as Exhibit A.

“Intellectual Property Rights” shall have the meaning ascribed to such term in Section 3.1(q).

“Legend Removal Date” shall have the meaning ascribed to such term in Section 4.1(c).

“Liens” means a lien, charge, pledge, security interest, encumbrance, right of first refusal, preemptive right or other similar restriction.

“Lock-Up Agreement” means the Lock-Up Agreements entered into and delivered pursuant to this Agreement.

“Material Adverse Effect” means any change, event, or occurrence, individually or when aggregated with other changes, events, or occurrences, that has or would reasonably be expected to have a materially adverse effect on (A) the business, operations, properties, assets or financial condition, of the Company and its respective Subsidiaries taken as a whole or (B) the ability of the Company to perform its obligations under the Transaction Documents, provided however that none of the following alone or in combination shall be deemed, in and of itself, to constitute a Material Adverse Effect or be considered in any determination as to whether a Material Adverse Effect has occurred or is continuing: any changes, events, occurrences or effects arising out of, resulting from or attributable to (i) business or economic conditions in the world or the industries in which the Company or any of their respective Subsidiaries operates except to the extent (and solely to the extent) it impacts the Company disproportionately to the industry in which it operates as a whole, (ii) the economy, credit or financial or capital markets anywhere in the world (including, without limitation, changes in interest or exchange rates) except to the extent (and solely to the extent) it impacts the Company disproportionately to the industry in which it operates as a whole, (iii) changes in IFRS or any accounting standards or policies, (iv) changes in law or other directives issued by the Commission or Trading Market, (v) the failure of the financial or operating performance of the Company or any of their respective Subsidiaries to meet projections, forecasts or budgets for any period (unless such failure results in the Company or any of their respective Subsidiaries not meeting any obligation under the Transaction Documents or results in an Event of Default under the Indenture), provided that this exception shall not exclude the underlying condition resulting in the failure to meet such projections, forecasts or budgets, (vi) any damage, destruction, loss or casualty to any of the properties or assets of the Company or any of their respective Subsidiaries that is covered by insurance, (vii) acts of war, sabotage or terrorism, or any escalation or worsening of any such acts of war, sabotage or terrorism, (viii) earthquakes, hurricanes, tornados or other natural disasters, epidemic, disease outbreak or pandemic (including the COVID-19 or SARS-CoV-2 virus or any mutation thereof), or (ix) changes attributable to the public announcement or pendency of the transactions contemplated hereby.

“Material Permits” shall have the meaning ascribed to such term in Section 3.1(o).

“Maximum Rate” shall have the meaning ascribed to such term in Section 5.14.

“Ordinary Shares” means the Ordinary Shares of the Company, par value \$0.001 per share, and any other class of securities into which such securities may hereafter be reclassified or changed.

“Ordinary Share Equivalents” means any securities of the Company or the Subsidiaries which would entitle the holder thereof to acquire at any time Ordinary Shares, including, without limitation, any debt, preferred stock, right, option, warrant or other instrument that is at any time convertible into or exercisable or exchangeable for, or otherwise entitles the holder thereof to receive, Ordinary Shares.

“Person” means an individual or corporation, partnership, trust, incorporated or unincorporated association, joint venture, limited liability company, joint stock company, government (or an agency or subdivision thereof) or other entity of any kind.

“Placement Agents” means The Benchmark Company, LLC and StoneX Financial Inc.

“Principal Amount” means, as to each Purchaser, the amounts set forth below such Purchaser’s signature block on the signature pages hereto next to the heading “Principal Amount,” in United States Dollars, which shall equal such Purchaser’s Subscription Amount.

“Proceeding” means an action, claim, suit, investigation or proceeding (including, without limitation, an informal investigation or partial proceeding, such as a deposition), whether commenced or threatened before or by any court, arbitrator, governmental or administrative agency or regulatory authority (federal, state, county, local or foreign).

“Public Information Failure” shall have the meaning ascribed to such term in Section 4.3(b).

“Public Information Failure Payments” shall have the meaning ascribed to such term in Section 4.3(b).

“Purchaser Party” shall have the meaning ascribed to such term in Section 4.10.

“Registration Rights Agreement” means the Registration Rights Agreement, dated on or about the date hereof, among the Company and the Purchasers, in the form of Exhibit B attached hereto.

“Registration Statement” means a registration statement meeting the requirements set forth in the Registration Rights Agreement and covering the resale of the Notes and Underlying Shares by each Purchaser as provided for in the Registration Rights Agreement.

“Required Approvals” shall have the meaning ascribed to such term in Section 3.1(e).

“Rule 144” means Rule 144 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same effect as such Rule.

“SEC Reports” shall have the meaning ascribed to such term in Section 3.1(h).

“Securities” means the Convertible Notes and the Underlying Shares.

“Securities Act” means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

“Settlement Disruption Event” means with respect to a Purchaser if such Purchaser fails to satisfy the DVP Readiness Requirements and, as a result, (i) the Trustee (or other settlement party) is required to re-run, re-submit, reverse, re-process or otherwise take incremental steps to attempt to complete such Purchaser’s settlement, (ii) the Company, the Placement Agents, the Trustee, the transfer agent (if any) or any of their respective affiliates, counsel or representatives incurs incremental time, fees or charges in connection with such Purchaser’s settlement, or (iii) the Subscription Amount to be paid by such Purchaser is not received by the Trustee and matched through DTC for DVP settlement by 2:00 p.m. (New York City time) on the Closing Date (or such later time as the Company may agree in writing in its sole discretion), provided that the Company (or the Trustee) has given notice of such mismatch or failure to match to such Purchaser’s operations contact on the Closing Date (which notice may be by email) and such Purchaser has failed to cure such mismatch or failure to match by 2:00 p.m. (New York City time) on the Closing Date.

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“Short Sales” means all “short sales” as defined in Rule 200 of Regulation SHO under the Exchange Act (but shall not be deemed to include locating and/or borrowing Ordinary Shares).

“SMRH” means Sheppard, Mullin, Richter & Hampton LLP, with offices located at 30 Rockefeller Plaza, New York, NY 10112-0015.

“Subscription Amount” means, as to each Purchaser, the aggregate amount to be paid for Convertible Notes purchased hereunder as specified below such Purchaser’s name on the signature page of this Agreement and next to the heading “Subscription Amount,” in United States dollars and in immediately available funds.

“Subsidiary” means any subsidiary of the Company and shall, where applicable, also include any direct or indirect subsidiary of the Company formed or acquired after the date hereof.

“Trading Day” means a day on which the principal Trading Market is open for trading.

“Trading Market” means any of the following markets or exchanges on which the Ordinary Shares are listed or quoted for trading on the date in question: the NYSE American, the Nasdaq Capital Market, the Nasdaq Global Market, the Nasdaq Global Select Market, the New York Stock Exchange, OTCQB or the OTCQX (or any successors to any of the foregoing).

“Transaction Documents” means this Agreement, the Indenture, the Convertible Notes, the Registration Rights Agreement, the Lock-Up Agreements, all exhibits and schedules thereto and hereto and any other documents or agreements executed in connection with the transactions contemplated hereunder.

“Transfer Agent” means Continental Stock Transfer & Trust Company, the current transfer agent of the Company and any successor transfer agent of the Company.

“Trustee” means U.S. Bank Trust Company, National Association, acting as trustee and paying agent for the Convertible Notes.

“Underlying Shares” means the Ordinary Shares issued and issuable pursuant to the terms of the Indenture and Convertible Notes, including without limitation, Ordinary Shares issued and issuable in lieu of the cash payment of interest on the Indenture and Convertible Notes in accordance with the terms of the Indenture, in each case without respect to any limitation or restriction on the conversion of the Convertible Notes.

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“VWAP” means, for any date, the price determined by the first of the following clauses that applies: (a) if the Ordinary Shares are then listed or quoted on a Trading Market, the daily volume weighted average price of the Ordinary Shares for such date (or the nearest preceding date) on the Trading Market on which the Ordinary Shares are then listed or quoted as reported by Bloomberg L.P. (based on a Trading Day from 9:30 a.m. (New York City time) to 4:02 p.m. (New York City time)), (b) if OTCQB or OTCQX is not a Trading Market, the volume weighted average price of the Ordinary Shares for such date (or the nearest preceding date) on OTCQB or OTCQX as applicable, (c) if the Ordinary Shares are not then listed or quoted for trading on OTCQB or OTCQX and if prices for the Ordinary Shares are then reported on the Pink Open Market (or a similar organization or agency succeeding to its functions of reporting prices), the most recent bid price per share of the Ordinary Shares so reported, or (d) in all other cases, the fair market value of a Ordinary Share as determined by an independent appraiser selected in good faith by the Purchasers of a majority in interest of the Securities then outstanding and reasonably acceptable to the Company, the fees and expenses of which shall be paid by the Company.

## ARTICLE II PURCHASE AND SALE

2.1 Closing. On the Closing Date, upon the terms and subject to the conditions set forth herein, the Company agrees to sell, and the Purchasers, severally and not jointly, agree to purchase, up to an aggregate of \$125,000,000 in principal amount of the Convertible Notes. Each Purchaser’s Subscription Amount as set forth on the signature page

hereto executed by such Purchaser and shall be made available for Delivery Versus Payment (“DVP”) settlement with the Company or its designee, and the Company shall deliver to each Purchaser its respective Convertible Note, as determined pursuant to Section 2.2(a), and the Company and each Purchaser shall deliver the other items set forth in Section 2.2 deliverable at the Closing. Upon satisfaction or waiver by the relevant Purchaser of the covenants and conditions set forth in Sections 2.2 and 2.3, the Closing shall take place remotely by electronic transfer of the Closing documentation within two (2) Business Days following the Company’s delivery to the Purchasers of an officer’s certificate, executed by the chief executive officer or chief financial officer of the Company, certifying that all conditions set forth in Section 2.3(b) have been satisfied or waived, which certificate and the satisfaction of such conditions shall be to the reasonable satisfaction of the Purchasers. The settlement of the Convertible Notes shall occur via DVP (i.e., on the Closing Date, the Company shall issue the Convertible Notes and upon receipt of such Convertible Notes, the payment therefor shall promptly be made by wire transfer to the Company).

## 2.2 Deliveries.

(a) On or prior to the Closing Date, the Company shall deliver or cause to be delivered to the Placement Agents, except as otherwise directed, for distribution to the Purchasers after the Closing, the following; provided that with respect to 2.2(a)(vi) and 2.2(a)(ix), the Placement Agents will be entitled to rely upon the certificates described therein to the same extent as if such certificate was directly addressed to the Placement Agents:

(i) this Agreement duly executed by the Company;

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(ii) a legal opinion of each of Company Cayman Counsel and Company U.S. Counsel to the Company, directed to the Placement Agents and the Purchasers, in a form reasonably acceptable to the Purchasers;

(iii) written instructions for DVP settlement, including the relevant account details and delivery instructions necessary to facilitate the settlement of the Securities on the Closing Date, delivered to each Purchaser;

(iv) the Lock-Up Agreements executed by each of the directors, officers and 5% shareholders of the Company;

(v) the Registration Rights Agreement duly executed by the Company;

(vi) A certificate of the Secretary or an Assistant Secretary (or equivalent) of the Company certifying the names and true signatures of the officers of such Person authorized to sign each Transaction Document to which it is or is to be a party and the other documents to be delivered hereunder and thereunder (each such officer named in such certificate, an “Authorized Officer”);

(vii) A copy of one or more certificates of the Secretary of State (or equivalent authority) of the jurisdiction of incorporation, organization or formation of the Company, dated reasonably near the Closing Date, certifying (A) as to a true and correct copy of the charter, certificate of formation or other equivalent organizational document of the Company and each amendment thereto on file in such Secretary’s office, (B) that such amendments are the only amendments to the charter, certificate of formation or other organizational document, as applicable, of such Person on file in such Secretary’s office, and (C) that such Person is in good standing or presently subsisting under the laws of the jurisdiction of its incorporation, organization or formation;

(viii) A certificate of an Authorized Officer of the Company certifying the due execution and delivery of the Convertible Notes and requesting that the Trustee (A) authenticate the Convertible Notes, in form and substance reasonably satisfactory to the majority in interest of the Purchasers and (B) deliver the Convertible Notes on an expedited basis via The Depository Trust Company, registered in the name of the Purchasers; and

(ix) a solvency certificate, in form and substance reasonably acceptable to the majority in interest of the Purchasers, from the chief financial officer, chief accounting officer or other officer with equivalent duties of the Company.

(b) On or prior to the Closing Date, each Purchaser shall deliver or cause to be delivered to the Company, the following:

(i) this Agreement duly executed by such Purchaser;

(ii) such Purchaser’s Subscription Amount which shall be made available for DVP settlement with the Company or its designees;

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(iii) complete and accurate DVP settlement instructions and all other information reasonably requested to effect settlement through DTC (including without limitation its DTC participant number (or the participant number of its broker/custodian), and contact details for its operations personnel);

(iv) a certificate of such Purchaser certifying that such Purchaser is a “qualified institutional buyer” as defined in Rule 144A under the Securities Act, in the form attached hereto as Exhibit C;

(v) the Registration Rights Agreement duly executed by such Purchaser.

(c) Each Purchaser shall cause its broker, custodian, clearing firm and/or other agent to be operationally ready and authorized to settle the purchase of the Convertible Notes at the Closing and on the Closing Date determined by the Company on a DVP basis through DTC (collectively, with the deliveries set forth in Section 2.2(b)(ii) and Section 2.2(b)(iii), the “DVP Readiness Requirements”).

(d) Reserved.

(e) Reserved.

(f) The parties acknowledge and agree that (i) the issuance and delivery of the global note representing the Notes (and the consummation of the Closing generally) may be required to occur at the Closing notwithstanding that one or more Purchasers have not completed DVP settlement, and (ii) a Purchaser’s failure to satisfy the DVP Readiness Requirements shall not relieve such Purchaser of its obligation to pay the Subscription Amount as provided in this Agreement.

## 2.3 Closing Conditions.

(a) The obligations of the Company hereunder in connection with the Closing are subject to the following conditions being met:

(i) the accuracy in all material respects (or, to the extent representations or warranties are qualified by materiality, in all respects) on the Closing Date of the representations and warranties of the Purchasers contained herein (unless as of a specific date therein in which case they shall be accurate in all material respects (or, to the extent representations or warranties are qualified by materiality, in all respects) as of such date);

(ii) all obligations, covenants and agreements of each Purchaser required to be performed at or prior to the Closing Date shall have been performed; and

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(iii) the delivery by each Purchaser of the items set forth in Section 2.2(b) of this Agreement.

(b) The respective obligations of the Purchasers hereunder in connection with the Closing are subject to the following conditions being met:

(i) the accuracy in all material respects (or, to the extent representations or warranties are qualified by materiality or Material Adverse Effect, in all respects) when made and on the Closing Date of the representations and warranties of the Company contained herein (unless as of a specific date therein in which case they shall be accurate in all material respects (or, to the extent representations or warranties are qualified by materiality or Material Adverse Effect, in all respects) as of such date);

(ii) all obligations, covenants and agreements of the Company required to be performed at or prior to the Closing Date shall have been performed;

(iii) the delivery by the Company of the items set forth in Section 2.2(a) of this Agreement;

(iv) the Indenture shall have been executed by the applicable parties thereto;

(v) no stop order suspending the effectiveness of any registration statement filed by the Company under the Securities Act shall have been issued and no proceedings for that purpose shall have been initiated or threatened by the Commission;

(vi) the Company shall have applied to list the Underlying Shares on the principal Trading Market;

(vii) there shall have been no Material Adverse Effect with respect to the Company since the date of the latest audited financial statements included within the SEC Reports, except as set forth in the SEC Reports;

(viii) the Company shall have obtained all governmental, regulatory and third party consents and approvals, if any, necessary for the sale of the Securities

(ix) the Notes being issued at Closing will be eligible for deposit and book-entry delivery through the Depository Trust Company ("DTC" and such eligibility, the "DTC Eligibility"); and

(x) from the date hereof to the Closing Date, trading in the Ordinary Shares shall not have been suspended by the Commission or the Company's principal Trading Market and, at any time prior to the Closing Date, trading in securities generally as reported by Bloomberg L.P. shall not have been suspended or limited, or minimum prices shall not have been established on securities whose trades are reported by such service, or on any Trading Market, nor shall a banking moratorium have been declared either by the United States or New York State authorities nor shall there have occurred any material outbreak or escalation of hostilities or other national or international calamity of such magnitude in its effect on, or any material adverse change in, any financial market which, in each case, in the reasonable judgment of such Purchaser, makes it impracticable or inadvisable to purchase the Securities at the Closing.

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### ARTICLE III. REPRESENTATIONS AND WARRANTIES

3.1 Representations and Warranties of the Company. Except as set forth in the SEC Reports filed on or prior to the date hereof or the Disclosure Schedules, which Disclosure Schedules shall be deemed a part hereof and shall qualify any representation made herein whether or not such section below explicitly states that such representation is made except as set forth on a schedule, and with the information and disclosures contained in each Schedule of these Disclosure Schedules being deemed to be disclosed and incorporated by reference in each of the other Schedules of these Disclosure Schedules as though fully set forth in such other Schedules (whether or not specific cross-references are made) where such disclosure is reasonably apparent on its face, the Company hereby makes the following representations and warranties to each Purchaser:

(a) Subsidiaries. All of the direct and indirect subsidiaries of the Company are set forth on Schedule 3.1(a). The Company owns, directly or indirectly, all of the capital stock or other equity interests of each Subsidiary free and clear of any Liens, and all of the issued and outstanding shares of capital stock of each Subsidiary are validly issued and are fully paid, non-assessable and free of preemptive and similar rights to subscribe for or purchase securities.

(b) Organization and Qualification. The Company and each of the Subsidiaries is an entity duly incorporated or otherwise organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization (to the extent such good standing concept exists in such jurisdiction), with the requisite power and authority to own and use its properties and assets and to carry on its business as currently conducted. Neither the Company nor any Subsidiary is in violation nor default of any of the provisions of its respective certificate or articles of incorporation, bylaws or other organizational or charter documents. Each of the Company and the Subsidiaries is duly qualified to conduct business and is in good standing (to the extent such good standing concept exists in such jurisdiction) as a foreign corporation or other entity in each jurisdiction in which the nature of the business conducted or property owned by it makes such qualification necessary, except where the failure to be so qualified or in good standing, as the case may be, would reasonably be expected to result in a Material Adverse Effect and no Proceeding has been instituted in any such jurisdiction revoking, limiting or curtailing or seeking to revoke, limit or curtail such power and authority or qualification.

(c) Authorization; Enforcement.

(i) The Company has the requisite corporate power and authority to enter into and to consummate the transactions contemplated by this Agreement and each of the other Transaction Documents and otherwise to carry out its obligations hereunder and thereunder. The execution and delivery of this Agreement and each of the other Transaction Documents by the Company and the consummation by the Company of the transactions contemplated hereby and thereby have been duly authorized by all necessary action on the part of the Company and no further action is required by the Company, the Board of Directors of the Company or the Company's stockholders in connection herewith or therewith other than in connection with the Required Approvals. This Agreement and each other Transaction Document to which it is a party has been (or upon delivery will have been) duly executed by the Company and, when delivered in accordance with the terms hereof and thereof by each of the parties hereto, will constitute the valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, except (i) as limited by

(d) No Conflicts. The execution, delivery and performance by the Company of this Agreement and the other Transaction Documents to which it is a party, the issuance and sale of the Securities and the consummation by it of the transactions contemplated hereby and thereby do not and will not (i) conflict with or violate any provision of the Company's or any Subsidiary's certificate or articles of incorporation, bylaws or other organizational or charter documents, or (ii) conflict with, or constitute a default (or an event that with notice or lapse of time or both would become a default) under, result in the creation of any Lien upon any of the properties or assets of the Company or any Subsidiary, or give to others any rights of termination, amendment, anti-dilution or similar adjustments, acceleration or cancellation (with or without notice, lapse of time or both) of, any agreement, credit facility, debt or other instrument (evidencing a Company or Subsidiary debt or otherwise) or other understanding to which the Company or any Subsidiary is a party or by which any property or asset of the Company or any Subsidiary is bound or affected, or (iii) subject to the Required Approvals, conflict with or result in a violation of any law, rule, regulation, order, judgment, injunction, decree or other restriction of any court or governmental authority to which the Company or a Subsidiary is subject (including federal and state securities laws and regulations), or by which any property or asset of the Company or a Subsidiary is bound or affected; except in the case of each of clauses (ii) and (iii), such as would not have or reasonably be expected to result in a Material Adverse Effect.

(e) Filings, Consents and Approvals. The Company is not required to obtain any consent, waiver, authorization or order of, give any notice to, or make any filing or registration with, any court or other federal, state, local or other governmental authority or other Person in connection with the execution, delivery and performance by the Company of the Transaction Documents, other than: (i) the filings required pursuant to Section 4.6 of this Agreement, (ii) the filing with the Commission pursuant to the Registration Rights Agreement, (iii) the notice and/or application(s) to each applicable Trading Market for the issuance and sale of the Securities and the listing of the Underlying Shares for trading thereon in the time and manner required thereby, and (iv) the filing of Form D with the Commission and such filings as are required to be made under applicable state securities laws (collectively, the "Required Approvals").

(f) Issuance of the Securities. The Securities are duly authorized and, when issued and paid for in accordance with the applicable Transaction Documents, will be duly and validly issued, fully paid and nonassessable, free and clear of all Liens imposed by the Company (other than transfer restrictions under applicable securities laws and as provided for in the Transaction Documents). The Underlying Shares, when issued in accordance with the terms of the Transaction Documents, will be validly issued, fully paid and nonassessable, free and clear of all Liens imposed by the Company other than restrictions on transfer provided for in the Transaction Documents.

(g) Capitalization. The capitalization of the Company as of the date hereof (without giving effect to the issuance of the Notes) is as set forth in the SEC Reports. The Company has not issued any capital stock since its most recently filed periodic report under the Exchange Act, other than pursuant to the exercise of employee stock options under a Company Equity Plan, the issuance of Ordinary Shares to employees pursuant to a Company Equity Plan and pursuant to the conversion and/or exercise of Ordinary Share Equivalents outstanding as of the date of the most recently filed periodic report under the Exchange Act. No Person has any right of first refusal, preemptive right, right of participation, or any similar right to participate in the transactions contemplated by the Transaction Documents. Except as set forth in the SEC Reports, there are no outstanding options, warrants, scrip rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities, rights or obligations convertible into or exercisable or exchangeable for, or giving any Person any right to subscribe for or acquire, any Ordinary Shares or the capital stock of any Subsidiary, or contracts, commitments, understandings or arrangements by which the Company or any Subsidiary is or may become bound to issue additional Ordinary Shares or Ordinary Share Equivalents or capital stock of any Subsidiary. The issuance and sale of the Securities will not obligate the Company or any Subsidiary to issue Ordinary Shares or other securities to any Person (other than the Purchasers). There are no outstanding securities or instruments of the Company or any Subsidiary with any provision that adjusts the exercise, conversion, exchange or reset price of such security or instrument upon an issuance of securities by the Company or any Subsidiary. There are no outstanding securities or instruments of the Company or any Subsidiary that contain any redemption or similar provisions, and there are no contracts, commitments, understandings or arrangements by which the Company or any Subsidiary is or may become bound to redeem a security of the Company or such Subsidiary. Other than the Company Equity Plans, the Company does not have any stock appreciation rights or "phantom stock" plans or agreements or any similar plan or agreement. To the Company's knowledge, all of the outstanding shares of capital stock of the Company are duly authorized, validly issued, fully paid and nonassessable, have been issued in compliance with all federal and state securities laws, and none of such outstanding shares was issued in violation of any preemptive rights or similar rights to subscribe for or purchase securities. No further approval or authorization of any stockholder, the Board of Directors or others is required for the issuance and sale of the Securities. There are no stockholders agreements, voting agreements or other similar agreements with respect to the voting of the Company's capital stock to which the Company is a party or, to the knowledge of the Company, between or among any of the Company's stockholders.

(h) SEC Reports; Financial Statements. The Company has filed all reports, schedules, forms, statements and other documents required to be filed by the Company under the Securities Act and the Exchange Act, including pursuant to Section 5 of the Securities Act and Section 13(a) or 15(d) of the Exchange Act, for the two years preceding the date hereof (or such shorter period as the Company was required by law or regulation to file such material) (the foregoing materials, including the exhibits thereto and documents incorporated by reference therein, and, together with the Reports of Foreign Private Issuer on Form 6-K filed by the Company with the Commission on May 6, 2026 (including the exhibits thereto) and on June 5, 2026 (including the exhibits thereto, other than Exhibit 99.8 thereto), being collectively referred to herein as the "SEC Reports") on a timely basis or has received a valid extension of such time of filing and has filed any such SEC Reports prior to the expiration of any such extension. As of their respective dates, the SEC Reports complied in all material respects with the requirements of the Securities Act and the Exchange Act, as applicable, and none of the SEC Reports, when filed, contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. The financial statements of the Company included in the SEC Reports comply in all material respects with applicable accounting requirements and the rules and regulations of the Commission with respect thereto as in effect at the time of filing. Such financial statements have been prepared in accordance with International Financial Reporting Standards applied on a consistent basis during the periods involved ("IFRS"), except as may be otherwise specified in such financial statements or the notes thereto and except that unaudited financial statements may not contain all footnotes required by IFRS, and fairly present in all material respects the financial position of the Company and its consolidated Subsidiaries as of and for the dates thereof and the results of operations and cash flows for the periods then ended, subject, in the case of unaudited statements, to normal, immaterial, year-end audit adjustments.

(i) Material Changes; Undisclosed Events, Liabilities or Developments. Since the date of the latest audited financial statements included within the SEC Reports, except as set forth in the SEC Reports, (i) there has been no event, occurrence or development that has had or that would reasonably be expected to result in a Material Adverse Effect, (ii) the Company has not incurred any liabilities (contingent or otherwise) other than (A) trade payables and accrued expenses incurred in the ordinary

course of business consistent with past practice and (B) liabilities not required to be reflected in the Company's financial statements pursuant to IFRS or disclosed in filings made with the Commission, (iii) the Company has not altered its method of accounting, (iv) the Company has not declared or made any dividend or distribution of cash or other property to its stockholders or purchased, redeemed or made any agreements to purchase or redeem any shares of its capital stock and (v) the Company has not issued any equity securities to any officer, director or Affiliate, except pursuant to existing Company Equity Plans. The Company does not have pending before the Commission any request for confidential treatment of information. Except for the issuance of the Securities contemplated by this Agreement or as set forth in the SEC Reports, no event, liability, fact, circumstance, occurrence or development has occurred or exists or is reasonably expected to occur or exist with respect to the Company or its Subsidiaries or their respective businesses, properties, operations, assets or financial condition that would be required to be disclosed by the Company under applicable securities laws at the time this representation is made or deemed made that has not been publicly disclosed at least 1 Trading Day prior to the date that this representation is made.

(j) Off-Balance Sheet Arrangements. There is no transaction, arrangement, or other relationship between the Company or any of its Subsidiaries and an unconsolidated or other off-balance sheet entity that is required to be disclosed by the Company in its SEC Reports and is not so disclosed or that otherwise would be reasonably likely to have a Material Adverse Effect.

(k) Litigation. Except as set forth in the SEC Reports, there is no material action, suit, inquiry, notice of violation, proceeding or investigation pending or, to the knowledge of the Company, threatened against or affecting the Company, any Subsidiary or any of their respective properties before or by any court, arbitrator, governmental or administrative agency or regulatory authority (federal, state, county, local or foreign) (collectively, an "Action"). None of the Actions set forth in the SEC Reports, (i) adversely affects or challenges the legality, validity or enforceability of any of the Transaction Documents or the Securities or (ii) would, if there were an unfavorable decision, have or reasonably be expected to result in a Material Adverse Effect. Neither the Company nor any Subsidiary, nor any director or officer thereof, is or has been the subject of any Action involving a claim of violation of or liability under federal or state securities laws or a claim of breach of fiduciary duty. There has not been, and to the knowledge of the Company, there is not pending or contemplated, any investigation by the Commission involving the Company or any current or former director or officer of the Company. The Commission has not issued any stop order or other order suspending the effectiveness of any registration statement filed by the Company or any Subsidiary under the Exchange Act or the Securities Act.

(l) Labor Relations. No labor dispute exists or, to the knowledge of the Company, is imminent with respect to any of the employees of the Company, which would reasonably be expected to result in a Material Adverse Effect. None of the Company's or its Subsidiaries' employees is a member of a union that relates to such employee's relationship with the Company or such Subsidiary, and neither the Company nor any of its Subsidiaries is a party to a collective bargaining agreement, and the Company and its Subsidiaries believe that their relationships with their employees are good. To the knowledge of the Company, no executive officer of the Company or any Subsidiary is, or is now expected to be, in violation of any material term of any employment contract, confidentiality, disclosure or proprietary information agreement or non-competition agreement, or any other contract or agreement or any restrictive covenant in favor of any third party, and the continued employment of each such executive officer does not subject the Company or any of its Subsidiaries to any liability with respect to any of the foregoing matters. The Company and its Subsidiaries are in compliance with all U.S. federal, state, local and foreign laws and regulations relating to employment and employment practices, terms and conditions of employment and wages and hours, except where the failure to be in compliance would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(m) Compliance. Neither the Company nor any Subsidiary: (i) is in default under or in violation of (and no event has occurred that has not been waived that, with notice or lapse of time or both, would result in a default by the Company or any Subsidiary under), nor has the Company or any Subsidiary received notice of a claim that it is in default under or that it is in violation of, any indenture, loan or credit agreement or any other agreement or instrument to which it is a party or by which it or any of its properties is bound (whether or not such default or violation has been waived), (ii) is in violation of any judgment, decree or order of any court, arbitrator or other governmental authority or (iii) is or has been in violation of any statute, rule, ordinance or regulation of any governmental authority, including without limitation all foreign, federal, state and local laws relating to taxes, environmental protection, occupational health and safety, product quality and safety and employment and labor matters, except in each case as would not have or reasonably be expected to result in a Material Adverse Effect.

(n) Environmental Laws. The Company and its respective Subsidiaries (i) are in compliance with all federal, state, local and foreign laws relating to pollution or protection of human health or the environment (including ambient air, surface water, groundwater, land surface or subsurface strata), including laws relating to emissions, discharges, releases or threatened releases of chemicals, pollutants, contaminants, or toxic or hazardous substances or wastes (collectively, "Hazardous Materials") into the environment, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials, as well as all authorizations, codes, decrees, demands, or demand letters, injunctions, judgments, licenses, notices or notice letters, orders, permits, plans or regulations, issued, entered, promulgated or approved thereunder ("Environmental Laws"); (ii) have received all permits licenses or other approvals required of them under applicable Environmental Laws to conduct their respective businesses; and (iii) are in compliance with all terms and conditions of any such permit, license or approval where in each clause (i), (ii) and (iii), the failure to so comply would be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect.

(o) Regulatory Permits. The Company and its Subsidiaries possess all certificates, authorizations and permits issued by the appropriate federal, state, local or foreign regulatory authorities necessary to conduct their respective businesses as described in the SEC Reports, except where the failure to possess such permits would not reasonably be expected to result in a Material Adverse Effect ("Material Permits"), and neither the Company nor any Subsidiary has received any notice of proceedings relating to the revocation or modification of any Material Permit.

(p) Title to Assets. The Company and the Subsidiaries have good and marketable title in fee simple to all real property owned by them and good title in all personal property owned by them that is material to the business of the Company and the Subsidiaries, in each case free and clear of all Liens, except for (i) Liens as do not materially affect the value of such property and do not materially interfere with the use made and proposed to be made of such property by the Company and the Subsidiaries and (ii) Liens for the payment of federal, state or other taxes, for which appropriate reserves have been made therefor in accordance with IFRS and, the payment of which is neither delinquent nor subject to penalties. Any real property and facilities held under lease by the Company and the Subsidiaries are held by them under valid, subsisting and enforceable leases with which the Company and the Subsidiaries are in compliance in all material respects.

(q) Intellectual Property. The Company and the Subsidiaries have, or have rights to use, all patents, patent applications, trademarks, trademark applications, service marks, trade names, trade secrets, inventions, copyrights, licenses and other intellectual property rights necessary or required for use in connection with their respective businesses as described in the SEC Reports and which the failure to so have would have a Material Adverse Effect (collectively, the "Intellectual Property Rights"). As of the date hereof, neither the Company nor any Subsidiary has received a notice (written or otherwise) that any of the Intellectual Property Rights has

expired, terminated or been abandoned, or is expected to expire or terminate or be abandoned, within two (2) years from the date of this Agreement. Neither the Company nor any Subsidiary has received, since the date of the latest audited financial statements included within the SEC Reports, a written notice of a claim or otherwise has any knowledge that the Intellectual Property Rights violate or infringe upon the rights of any Person, except as would not have or reasonably be expected to not have a Material Adverse Effect. To the knowledge of the Company, all such Intellectual Property Rights are enforceable and as of the date hereof, there is no existing infringement by another Person of any of the Intellectual Property Rights. The Company and its Subsidiaries have taken reasonable security measures to protect the secrecy, confidentiality and value of all of their intellectual properties, except where failure to do so would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(r) Insurance. The Company and the Subsidiaries are insured against such losses and risks and in such amounts as the Board of Directors of the Company has determined, in its good faith business judgment, to be necessary or prudent for the businesses in which the Company and the Subsidiaries are currently engaged, including, but not limited to, customary directors and officers insurance coverage at least equal to the aggregate Subscription Amount. Neither the Company nor any Subsidiary has any reason to believe that it will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its business.

(s) Transactions with Affiliates and Employees. Except as set forth in the SEC Reports, none of the executive or named officers or directors of the Company or any Subsidiary and, to the knowledge of the Company, none of the employees of the Company or any Subsidiary is presently a party to any transaction with the Company or any Subsidiary (other than for services as employees, officers and directors), including any contract, agreement or other arrangement providing for the furnishing of services to or by, providing for rental of real or personal property to or from, providing for the borrowing of money from or lending of money to or otherwise requiring payments to or from any officer, director or such employee or, to the knowledge of the Company, any entity in which any officer, director, or any such employee has a substantial interest or is an officer, director, trustee, stockholder, member or partner, in each case in excess of \$120,000 other than for (i) payment of salary or consulting fees for services rendered, (ii) reimbursement for expenses incurred on behalf of the Company and (iii) other employee benefits, including stock option agreements under any stock option plan of the Company.

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(t) Sarbanes-Oxley: Internal Accounting Controls. The Company and the Subsidiaries are in compliance in all material respects with any and all applicable requirements of the Sarbanes-Oxley Act of 2002, as amended, that are effective as of the date hereof, and any and all applicable rules and regulations promulgated by the Commission thereunder that are effective as of the date hereof and as of the Closing Date. The Company and the Subsidiaries maintain a system of internal accounting controls sufficient to provide reasonable assurance that: (i) transactions are executed in accordance with management's general or specific authorizations, (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with IFRS and to maintain asset accountability, (iii) access to assets is permitted only in accordance with management's general or specific authorization, and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences. The Company and the Subsidiaries have established disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) for the Company and the Subsidiaries and designed such disclosure controls and procedures to ensure that information required to be disclosed by the Company in the reports it files or submits under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the Commission's rules and forms. The Company's certifying officers have evaluated the effectiveness of the disclosure controls and procedures of the Company and the Subsidiaries as of the end of the period covered by the most recently filed periodic report under the Exchange Act (such date, the "Evaluation Date"). The Company presented in its most recently filed periodic report under the Exchange Act the conclusions of the certifying officers about the effectiveness of the disclosure controls and procedures based on their evaluations as of the Evaluation Date. Since the Evaluation Date, there have been no changes in the internal control over financial reporting (as such term is defined in the Exchange Act) of the Company and its Subsidiaries that have materially affected, or is reasonably likely to materially affect, the internal control over financial reporting of the Company and its Subsidiaries.

(u) Certain Fees. Except for fees payable by the Company to the Placement Agents, no brokerage or finder's fees or commissions are or will be payable by the Company or any Subsidiaries to any broker, financial advisor or consultant, finder, placement agent, investment banker, bank or other Person with respect to the transactions contemplated by the Transaction Documents. The Purchasers shall have no obligation with respect to any fees or with respect to any claims made by or on behalf of other Persons for fees of a type contemplated in this Section that may be due in connection with the transactions contemplated by the Transaction Documents.

(v) Private Placement. Assuming the accuracy of the Purchasers' representations and warranties set forth in Section 3.2, no registration under the Securities Act is required for the offer and sale of the Securities by the Company to the Purchasers as contemplated hereby and it is not required to qualify the Indenture under the Trust Indenture Act of 1939, as amended. The issuance and sale of the Securities hereunder does not contravene the rules and regulations of the Trading Market.

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(w) Investment Company. The Company is not, and immediately after receipt of payment for the Securities, will not be, an "investment company" or a company that is "controlled" by an "investment company," as such terms are defined in the Investment Company Act of 1940, as amended. The Company shall conduct its business in a manner so that it will not become an "investment company" subject to registration under the Investment Company Act of 1940, as amended.

(x) Registration Rights. No Person has any right to cause the Company or any Subsidiary to effect the registration under the Securities Act of any securities of the Company or any Subsidiaries.

(y) Listing and Maintenance Requirements. The Ordinary Shares are registered pursuant to Section 12(b) or 12(g) of the Exchange Act, and the Company has taken no action designed to, or which to its knowledge is likely to have the effect of, terminating the registration of the Ordinary Shares under the Exchange Act nor has the Company received any notification that the Commission is contemplating terminating such registration. The Company has not, in the 12 months preceding the date hereof, received notice from any Trading Market on which the Ordinary Shares are or has been listed or quoted to the effect that the Company is not in compliance with the listing or maintenance requirements of such Trading Market. The Company is, and has no reason to believe that it will not in the foreseeable future continue to be, in compliance with all such listing and maintenance requirements. The Ordinary Shares are currently eligible for electronic transfer through the Depository Trust Company or another established clearing corporation and the Company is current in payment of the fees to the Depository Trust Company (or such other established clearing corporation) in connection with such electronic transfer.

(z) Application of Takeover Protections. The Company and the Board of Directors of the Company have taken all necessary action, if any, in order to render inapplicable any control share acquisition, business combination, poison pill (including any distribution under a rights agreement) or other similar anti-takeover provision under the Company's certificate of incorporation (or similar charter documents) or the laws of its state of incorporation that is or would become applicable to the Purchasers as a result of the Purchasers and the Company fulfilling their obligations or exercising their rights under the Transaction Documents, including without limitation as a result of the Company's issuance of the Securities and the Purchasers' ownership of the Securities.

(aa) Disclosure. Except with respect to the material terms and conditions of the transactions contemplated by the Transaction Documents, the Company hereby confirms that neither it nor any other Person acting on its behalf has provided any of the Purchasers or their agents or counsel with any information that it believes constitutes or might constitute material, non-public information. The Company understands and confirms that the Purchasers will rely on the foregoing representation in

effecting transactions in securities of the Company. All of the disclosure furnished by or on behalf of the Company to the Purchasers regarding the Company and its Subsidiaries, their respective businesses and the transactions contemplated hereby, including the Disclosure Schedules to this Agreement and the other Transaction Documents, is true and correct and does not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading. The press releases disseminated by the Company during the twelve months preceding the date of this Agreement taken as a whole do not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were made and when made, not misleading. The Company acknowledges and agrees that no Purchaser makes or has made any representations or warranties with respect to the transactions contemplated hereby other than those specifically set forth in Section 3.2 hereof.

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(bb) No Integrated Offering. Assuming the accuracy of the Purchasers' representations and warranties set forth in Section 3.2, neither the Company, nor any of its Affiliates, nor any Person acting on its or their behalf has, directly or indirectly, made any offers or sales of any security or solicited any offers to buy any security, under circumstances that would cause this offering of the Securities to be integrated with prior offerings by the Company for purposes of (i) the Securities Act which would require the registration of any such securities under the Securities Act, or (ii) any applicable shareholder approval provisions of any Trading Market on which any of the securities of the Company are listed or designated.

(cc) Solvency. Based on the consolidated financial condition of the Company as of the Closing Date, after giving effect to the receipt by the Company of the proceeds from the sale of the Securities hereunder, (i) the fair saleable value of the Company's assets exceeds the amount that will be required to be paid on or in respect of the Company's existing debts and other liabilities (including known contingent liabilities) as they mature, (ii) the Company's assets do not constitute unreasonably small capital to carry on its business as now conducted and as proposed to be conducted including its capital needs taking into account the particular capital requirements of the business conducted by the Company, consolidated and projected capital requirements and capital availability thereof, and (iii) the current cash flow of the Company, together with the proceeds the Company would receive, were it to liquidate all of its assets, after taking into account all anticipated uses of the cash, would be sufficient to pay all amounts on or in respect of its liabilities when such amounts are required to be paid. The Company does not intend to incur debts beyond its ability to pay such debts as they mature (taking into account the timing and amounts of cash to be payable on or in respect of its debt). The Company has no knowledge of any facts or circumstances which lead it to believe that it will file for reorganization or liquidation under the bankruptcy or reorganization laws of any jurisdiction within one year from the Closing Date. The SEC Reports set forth as of the date hereof all outstanding secured and unsecured Indebtedness of the Company or any Subsidiary, or for which the Company or any Subsidiary has commitments. For the purposes of this Agreement, "Indebtedness" means (x) any liabilities for borrowed money or amounts owed in excess of \$250,000 (other than trade accounts payable incurred in the ordinary course of business), (y) all guaranties, endorsements and other contingent obligations in respect of indebtedness of others, whether or not the same are or should be reflected in the Company's consolidated balance sheet (or the notes thereto), except guaranties by endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of business; and (z) the present value of any lease payments in excess of \$250,000 due under leases required to be capitalized in accordance with IFRS. Neither the Company nor any Subsidiary is in default with respect to any Indebtedness.

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(dd) Tax Status. Except for matters that would not, individually or in the aggregate, have or reasonably be expected to result in a Material Adverse Effect, the Company and its Subsidiaries each (i) has made or filed all United States federal, state and local income and all foreign income and franchise tax returns, reports and declarations required by any jurisdiction to which it is subject, (ii) has paid all taxes and other governmental assessments and charges that are material in amount, shown or determined to be due on such returns, reports and declarations and (iii) has set aside on its books provision reasonably adequate for the payment of all material taxes for periods subsequent to the periods to which such returns, reports or declarations apply. There are no unpaid taxes in any material amount claimed to be due by the taxing authority of any jurisdiction, and the officers of the Company or of any Subsidiary know of no basis for any such claim.

(ee) No General Solicitation. Neither the Company nor any Person acting on behalf of the Company has offered or sold any of the Securities by any form of general solicitation or general advertising. The Company has offered the Securities for sale only to the Purchasers and certain other "accredited investors" within the meaning of Rule 501 under the Securities Act.

(ff) Foreign Corrupt Practices. Neither the Company nor any Subsidiary, nor to the knowledge of the Company or any Subsidiary, any agent or other person acting on behalf of the Company or any Subsidiary, has (i) directly or indirectly, used any funds for unlawful contributions, gifts, entertainment or other unlawful expenses related to foreign or domestic political activity, (ii) made any unlawful payment to foreign or domestic government officials or employees or to any foreign or domestic political parties or campaigns from corporate funds, (iii) failed to disclose fully any contribution made by the Company or any Subsidiary (or made by any person acting on its behalf of which the Company is aware) which is in violation of law or (iv) violated in any material respect any provision of FCPA.

(gg) Accountants. The Company's accounting firm is UHY LLP. To the knowledge and belief of the Company, such accounting firm (i) is a registered public accounting firm as required by the Exchange Act and (ii) shall express its opinion with respect to the financial statements to be included in the Company's Annual Report for the fiscal year end.

(hh) No Disagreements with Accountants and Lawyers. There are no disagreements of any kind presently existing, or reasonably anticipated by the Company to arise, between the Company and the accountants and lawyers formerly or presently employed by the Company and the Company is current with respect to any fees owed to its accountants and lawyers which would affect the Company's or any of its Subsidiaries' ability to perform any of its obligations under any of the Transaction Documents.

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(ii) Acknowledgment Regarding Purchasers' Purchase of Securities. The Company acknowledges and agrees that each of the Purchasers is acting solely in the capacity of an arm's length purchaser with respect to the Transaction Documents and the transactions contemplated thereby. The Company further acknowledges that no Purchaser is acting as a financial advisor or fiduciary of the Company (or in any similar capacity) with respect to the Transaction Documents and the transactions contemplated thereby and any advice given by any Purchaser or any of their respective representatives or agents in connection with the Transaction Documents and the transactions contemplated thereby is merely incidental to the Purchasers' purchase of the Securities. The Company further represents to each Purchaser that the Company's decision to enter into this Agreement and the other Transaction Documents has been based solely on the independent evaluation of the transactions contemplated hereby by the Company and its representatives.

(jj) Acknowledgment Regarding Purchaser's Trading Activity. Anything in this Agreement or elsewhere herein to the contrary notwithstanding (except for

Section 3.2(h) and, solely with respect to any Purchaser that is a director, officer, or 5% shareholder of the Company, 4.14 hereof), it is understood and acknowledged by the Company that: (i) none of the Purchasers has been asked by the Company to agree, nor has any Purchaser agreed, to desist from purchasing or selling, long and/or short, securities of the Company, or “derivative” securities based on securities issued by the Company or to hold the Securities for any specified term, (ii) past or future open market or other transactions by any Purchaser, specifically including, without limitation, Short Sales or “derivative” transactions, before or after the closing of this or future private placement transactions, may negatively impact the market price of the Company’s publicly-traded securities, (iii) any Purchaser, and counter-parties in “derivative” transactions to which any such Purchaser is a party, directly or indirectly, may presently have a “short” position in the Ordinary Shares and (iv) each Purchaser shall not be deemed to have any affiliation with or control over any arm’s length counter-party in any “derivative” transaction. The Company further understands and acknowledges that (y) one or more Purchasers may engage in hedging activities at various times during the period that the Securities are outstanding, including, without limitation, during the periods that the value of the Underlying Shares deliverable with respect to Securities are being determined, and (z) such hedging activities (if any) could reduce the value of the existing stockholders’ equity interests in the Company at and after the time that the hedging activities are being conducted. The Company acknowledges that such aforementioned hedging activities do not constitute a breach of any of the Transaction Documents.

(kk) Regulation M Compliance. The Company has not, and to its knowledge no one acting on its behalf has, (i) taken, directly or indirectly, any action designed to cause or to result in the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of any of the Securities, (ii) sold, bid for, purchased, or paid any compensation for soliciting purchases of, any of the Securities, or (iii) paid or agreed to pay to any Person any compensation for soliciting another to purchase any other securities of the Company, other than, in the case of clauses (ii) and (iii), compensation paid to the Placement Agents in connection with the placement of the Securities.

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(ll) Stock Option Plans. To the Company’s knowledge, except as disclosed in Schedule 3.1(II), each stock option granted by the Company under a Company Equity Plan was granted (i) in accordance with the terms of the Company Equity Plan and (ii) with an exercise price at least equal to the fair market value of the Ordinary Shares on the date such stock option would be considered granted under IFRS and applicable law. To the Company’s knowledge, no stock option granted under a Company Equity Plan has been backdated. The Company has not knowingly granted, and there is no and has been no Company policy or practice to knowingly grant, stock options prior to, or otherwise knowingly coordinate the grant of stock options with, the release or other public announcement of material information regarding the Company or its Subsidiaries or their financial results or prospects.

(mm) Cybersecurity. (i)(x) to the Company’s knowledge, there has been no security breach or other compromise of or relating to any of the Company’s or any Subsidiary’s information technology and computer systems, networks, hardware, software, data (including the data of its respective customers, employees, suppliers, vendors and any third party data maintained by or on behalf of it), equipment or technology (collectively, “IT Systems and Data”) and (y) the Company and its Subsidiaries have not been notified of, and has no knowledge of any event or condition that would reasonably be expected to result in, any security breach or other compromise to its IT Systems and Data; (ii) the Company and its Subsidiaries are presently in compliance with all applicable laws or statutes and all judgments, orders, rules and regulations of any court or arbitrator or governmental or regulatory authority, internal policies and contractual obligations relating to the privacy and security of IT Systems and Data and to the protection of such IT Systems and Data from unauthorized use, access, misappropriation or modification, except as would not, individually or in the aggregate, have a Material Adverse Effect; (iii) the Company and its Subsidiaries have implemented and maintained commercially reasonable safeguards to maintain and protect its material confidential information and the integrity, continuous operation, redundancy and security of all IT Systems and Data; and (iv) the Company and the Subsidiaries have implemented backup and disaster recovery technology consistent with industry standards and practices.

(nn) Office of Foreign Assets Control. Neither the Company nor any Subsidiary nor, to the Company’s knowledge, any director, officer, agent, employee or affiliate of the Company or any Subsidiary is currently subject to any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department (“OFAC”).

(oo) U.S. Real Property Holding Corporation. The Company has never been a U.S. real property holding corporation within the meaning of Section 897 of the Internal Revenue Code of 1986, as amended, and the Company shall so certify upon Purchaser’s request.

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(pp) Bank Holding Company Act. Neither the Company nor any of its Subsidiaries nor, to the Company’s knowledge, any of the Company’s Affiliates, is subject to the Bank Holding Company Act of 1956, as amended (the “BHCA”) and to regulation by the Board of Governors of the Federal Reserve System (the “Federal Reserve”). Neither the Company nor any of its Subsidiaries nor, to the Company’s knowledge, any of the Company’s Affiliates, owns or controls, directly or indirectly, five percent (5%) or more of the outstanding shares of any class of voting securities or twenty-five percent or more of the total equity of a bank or any entity that is subject to the BHCA and to regulation by the Federal Reserve. Neither the Company nor any of its Subsidiaries or Affiliates exercises a controlling influence over the management or policies of a bank or any entity that is subject to the BHCA and to regulation by the Federal Reserve.

(qq) Money Laundering. The operations of the Company and its Subsidiaries are and have been conducted at all times in compliance with applicable financial record-keeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, applicable money laundering statutes and applicable rules and regulations thereunder (collectively, the “Money Laundering Laws”), and no Action or Proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any Subsidiary with respect to the Money Laundering Laws is pending or, to the knowledge of the Company or any Subsidiary, threatened.

(rr) Sanctions. Neither the Company nor any Subsidiary nor, to the Company’s knowledge, any director, officer, agent, employee or affiliate of the Company or any Subsidiary is currently the subject or the target of any sanctions administered or enforced by the United States Government (including, without limitation, OFAC or the U.S. Department of State), the United Nations Security Council, the European Union, His Majesty’s Treasury, or other relevant sanctions authority (collectively, “Sanctions”), nor is the Company or any Subsidiary located, organized or resident in a country or territory that is the subject or target of Sanctions, including, without limitation, Cuba, Iran, North Korea, Syria and the Crimea, Donetsk and Luhansk regions of Ukraine; and the Company will not directly or indirectly use the proceeds of the offering of the Securities hereunder, or lend, contribute or otherwise make available such proceeds to any Subsidiary, joint venture partner or other Person, for the purpose of financing the activities of any Person currently the subject or target of any Sanctions.

(ss) No Disqualification Events. With respect to the Securities to be offered and sold hereunder in reliance on Rule 506 under the Securities Act, none of the Company, any of its predecessors, any affiliated issuer, any director, executive officer, other officer of the Company participating in the offering hereunder, any beneficial owner of 20% or more of the Company’s outstanding voting equity securities, calculated on the basis of voting power, nor any promoter (as that term is defined in Rule 405 under the Securities Act) connected with the Company in any capacity at the time of sale (each, an “Issuer Covered Person” and, together, “Issuer Covered Persons”) is subject to any of the “Bad Actor” disqualifications described in Rule 506(d)(1)(i) to (viii) under the Securities Act (a “Disqualification Event”), except for a Disqualification Event covered by Rule 506(d)(2) or (d)(3). The Company has exercised reasonable care to determine whether any Issuer Covered Person is subject to a Disqualification Event. The Company has complied, to the extent applicable, with its disclosure obligations under Rule 506(e), and has furnished to the Purchasers a copy of any disclosures provided thereunder.

(tt) Other Covered Persons. Other than the Placement Agents, the Company is not aware of any person (other than any Issuer Covered Person) that has been or will be paid (directly or indirectly) remuneration for solicitation of purchasers in connection with the sale of any Securities.

(uu) Notice of Disqualification Events. The Company will notify the Purchasers and the Placement Agents in writing, prior to the Closing Date of (i) any Disqualification Event relating to any Issuer Covered Person and (ii) any event that would, with the passage of time, become a Disqualification Event relating to any Issuer Covered Person.

(vv) Compliance with Data Privacy Laws. To the best of the Company's knowledge, (i) the Company and the Subsidiaries are, and at all times during the last three (3) years were, in compliance with all applicable state, federal and foreign data privacy and security laws and regulations, including, without limitation, the European Union General Data Protection Regulation ("GDPR") (EU 2016/679) (collectively, "Privacy Laws"); (ii) the Company and the Subsidiaries have in place, comply with, and take appropriate steps reasonably designed to ensure compliance with their policies and procedures relating to data privacy and security and the collection, storage, use, disclosure, handling and analysis of Personal Data (as defined below) (the "Policies"); (iii) the Company provides accurate notice of its applicable Policies to its customers, employees, third party vendors and representatives as required by the Privacy Laws; and (iv) applicable Policies provide accurate and sufficient notice of the Company's then-current privacy practices relating to its subject matter, and do not contain any material omissions of the Company's then-current privacy practices, as required by Privacy Laws. "Personal Data" means (i) a natural person's name, street address, telephone number, email address, photograph, social security number, bank information, or customer or account number; (ii) any information which would qualify as "personally identifying information" under the Federal Trade Commission Act, as amended; (iii) "personal data" as defined by GDPR; and (iv) any other piece of information that allows the identification of such natural person, or his or her family, or permits the collection or analysis of any identifiable data related to an identified person's health or sexual orientation. (i) None of such disclosures made or contained in any of the Policies have been inaccurate, misleading, or deceptive in violation of any Privacy Laws and (ii) the execution, delivery and performance of the Transaction Documents will not result in a breach of any Privacy Laws or Policies. Neither the Company nor the Subsidiaries (i) to the knowledge of the Company, has received written notice of any actual or potential liability of the Company or the Subsidiaries under, or actual or potential violation by the Company or the Subsidiaries of, any of the Privacy Laws; (ii) is currently conducting or paying for, in whole or in part, any investigation, remediation or other corrective action pursuant to any regulatory request or demand pursuant to any Privacy Law; or (iii) is a party to any order, decree, or agreement by or with any court or arbitrator or governmental or regulatory authority that imposed any obligation or liability under any Privacy Law.

(ww) Foreign Private Issuer. The Company is a "foreign private issuer" as defined in Rule 405 promulgated under the Securities Act.

(xx) Consent to Jurisdiction. The Company has the power to submit, and pursuant to this Agreement, has legally, validly, effectively, and irrevocably submitted, to the jurisdiction of any federal or state court in the State of New York, County of New York.

(yy) Shell Company Status. The Company is not currently an issuer identified in Rule 144(i) under the Securities Act. The Company has filed Form 10 information at least one year prior to the date hereof, and the Company has filed all reports and materials required to be filed by the Company pursuant to Section 13(a) or Section 15(d) of the Exchange Act during the twelve (12) months preceding the date hereof (or such shorter period as the Company was required to file such reports and materials), other than reports on Form 6-K.

3.2 Representations and Warranties of the Purchasers. Each Purchaser, for itself and for no other Purchaser, hereby represents and warrants as of the date hereof and as of the Closing Date to the Company as follows (unless as of a specific date therein, in which case they shall be accurate as of such date):

(a) Organization; Authority. Such Purchaser is either an individual or an entity duly incorporated or formed, validly existing and in good standing under the laws of the jurisdiction of its incorporation or formation with full right, corporate, partnership, limited liability company or similar power and authority to enter into and to consummate the transactions contemplated by the Transaction Documents and otherwise to carry out its obligations hereunder and thereunder. The execution and delivery of the Transaction Documents and performance by such Purchaser of the transactions contemplated by the Transaction Documents have been duly authorized by all necessary corporate, partnership, limited liability company or similar action, as applicable, on the part of such Purchaser. Each Transaction Document to which it is a party has been duly executed by such Purchaser, and when delivered by such Purchaser in accordance with the terms hereof, will constitute the valid and legally binding obligation of such Purchaser, enforceable against it in accordance with its terms, except (i) as limited by general equitable principles and applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors' rights generally, (ii) as limited by laws relating to the availability of specific performance, injunctive relief or other equitable remedies and (iii) insofar as indemnification and contribution provisions may be limited by applicable law.

(b) Understandings or Arrangements. Such Purchaser understands that the Securities are "restricted securities" and have not been registered under the Securities Act or any applicable state securities law and is acquiring the Securities as principal for its own account and not with a view to or for distributing or reselling such Securities or any part thereof in violation of the Securities Act or any applicable state securities law, has no present intention of distributing any of such Securities in violation of the Securities Act or any applicable state securities law and has no direct or indirect arrangement or understandings with any other persons to distribute or regarding the distribution of such Securities in violation of the Securities Act or any applicable state securities law (this representation and warranty not limiting such Purchaser's right to sell such Securities pursuant to the Registration Statement or otherwise in compliance with applicable federal and state securities laws). Such Purchaser is acquiring the Securities hereunder in the ordinary course of its business.

(c) Purchaser Status. At the time such Purchaser was offered the Securities, it was, and as of the date hereof it is, and on each date on which it converts any Convertible Notes it will be (i) an "institutional account" as defined in FINRA Rule 4512(c), (ii) an institutional "accredited investor" as defined in Rule 501(a)(1), (a)(2), (a)(3), (a)(7), (a)(8), (a)(9), (a)(12), or (a)(13) under the Securities Act and (iii) it understands and agrees that the offer and sale of the Securities to such Purchaser have not been registered under the Securities Act or any state securities law in reliance on the availability of an exemption from such registration. Such Purchaser hereby represents that neither such Purchaser nor any of its Rule 506(d) Related Parties (as defined below) is a "bad actor" within the meaning of Rule 506(d) promulgated under the Securities Act. For purposes of this Agreement, "Rule 506(d) Related Party" shall mean a person or entity covered by the "Bad Actor disqualification" provision of Rule 506(d) of the Securities Act.

(d) Experience of Such Purchaser. Such Purchaser, either alone or together with its representatives, is a sophisticated institutional investor and has such knowledge, sophistication and experience in business and financial matters so as to be capable of evaluating the merits and risks of the prospective investment in the Securities, and has so evaluated the merits and risks of such investment. Such Purchaser is able to bear the economic risk of an investment in the Securities and, at the

present time, is able to afford a complete loss of such investment. Such Purchaser has independently made its own analysis and decision to invest in the Securities and determined based on its own independent review, and such professional advice from its own advisors (including as to tax, legal and accounting matters) as it may deem appropriate, that its purchase of the Securities (i) is consistent with such Purchaser's financial needs, objectives and condition, (ii) complies with all investment policies, guidelines and other restrictions that are applicable to such Purchaser, (iii) does not and will not violate any law, rule, regulation, agreement or other obligation to which such Purchaser is bound (assuming the accuracy of the Company's representations and warranties contained herein), and (iv) is a fit, proper and suitable investment for such Purchaser, notwithstanding the risks associated with a purchase of the Securities.

(e) General Solicitation. Such Purchaser is not purchasing the Securities as a result of any advertisement, article, notice or other communication regarding the Securities published in any newspaper, magazine or similar media or broadcast over television or radio or presented at any seminar or, to the knowledge of such Purchaser, any other general solicitation or general advertisement.

(f) Access to Information. Such Purchaser acknowledges that it has had the opportunity to review the Transaction Documents (including all exhibits and schedules thereto) and the SEC Reports and has been afforded (i) the opportunity to ask such questions as it has deemed necessary or desirable of, and to receive answers from, representatives of the Company concerning the terms and conditions of the offering of the Securities and the merits and risks of investing in the Securities; (ii) access to information about the Company and its financial condition, results of operations, business, properties, management and prospects sufficient or desirable to enable it to evaluate its investment and verify the accuracy of any information furnished to such Purchaser or to which such Purchaser had access; and (iii) the opportunity to obtain such additional information that the Company possesses or can acquire without unreasonable effort or expense that is necessary to make an informed investment decision with respect to the investment.

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(g) Responsibility of the Placement Agent. Such Purchaser acknowledges and agrees that neither the Placement Agent nor any Affiliate of the Placement Agent has provided such Purchaser with any information or advice with respect to the Securities nor is such information or advice necessary or desired. Neither the Placement Agent nor any Affiliate has made or makes any representation as to the Company or the quality of the Securities and the Placement Agent and any Affiliate may have acquired non-public information with respect to the Company which such Purchaser agrees need not be provided to it. In connection with the issuance of the Securities to such Purchaser, neither the Placement Agent nor any of their Affiliates have acted as a financial advisor or fiduciary to such Purchaser. Such Purchaser agrees that none of the Placement Agent or their control persons, officers, directors or employees shall be liable to such Purchaser for any action heretofore or hereafter taken or omitted to be taken by any of them in connection with any Purchaser's purchase of the Securities. Without limitation of the foregoing, each Purchaser hereby further acknowledges and agrees that (i) the Placement Agent is acting solely as placement agents in connection with the transactions contemplated hereby and are not acting as underwriters, initial purchasers, dealers or in any other such capacity and are not and shall not be construed as fiduciaries for such Purchaser, the Company or any other person or entity in connection with the transactions contemplated hereby, (ii) the Placement Agent has not made and will not make any representation or warranty, whether express or implied, of any kind or character and have not provided any advice or recommendation in connection with the transactions contemplated hereby, and (iii) the Placement Agent will have no responsibility with respect to (A) any representations, warranties or agreements made by any person or entity under or in connection with the transactions contemplated hereby or any of the documents furnished pursuant thereto or in connection therewith, or the execution, legality, validity or enforceability (with respect to any person) of any thereof, or (B) the financial condition, business, or any other matter concerning the Company or the transactions contemplated hereby. In connection with the issuance of the Securities to such Purchaser, neither the Placement Agent nor any of its Affiliates has acted as a financial advisor or fiduciary to such Purchaser.

(h) Certain Transactions and Confidentiality. Other than consummating the transactions contemplated hereunder, such Purchaser has not, nor has any Person acting on behalf of or pursuant to any understanding with such Purchaser, directly or indirectly executed any purchases or sales, including Short Sales, of the securities of the Company during the period commencing as of the time that such Purchaser first received a term sheet (written or oral) from the Company or any other Person representing the Company setting forth the material terms of the transactions contemplated hereunder and ending immediately prior the Disclosure Time. Notwithstanding the foregoing, in the case of a Purchaser that is a multi-managed investment vehicle whereby separate portfolio managers manage separate portions of such Purchaser's assets and the portfolio managers have no direct knowledge of the investment decisions made by the portfolio managers managing other portions of such Purchaser's assets, the representation set forth above shall only apply with respect to the portion of assets managed by the portfolio manager that made the investment decision to purchase the Securities covered by this Agreement. Other than to other Persons party to this Agreement or to such Purchaser's representatives, including, without limitation, its officers, directors, partners, legal and other advisors, employees, agents and Affiliates, such Purchaser has maintained the confidentiality of all disclosures made to it in connection with this transaction (including the existence and terms of this transaction). Notwithstanding the foregoing, for the avoidance of doubt, nothing contained herein shall constitute a representation or warranty against, or a prohibition of, any actions with respect to the borrowing of, arrangement to borrow, identification of the availability of, and/or securing of, securities of the Company in order for such Purchaser (or its broker or other financial representative) to effect Short Sales or similar transactions following the Disclosure Time.

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(i) Qualified Institutional Buyer Status. Such Purchaser is a QIB. Such Purchaser acknowledges that the Securities have not been registered under the Securities Act, or the securities laws of any state or other jurisdiction, and are being offered and sold in reliance upon an exemption from the registration requirements of the Securities Act. Such Purchaser further acknowledges that the Securities may not be offered, sold, pledged or otherwise transferred except pursuant to an effective registration statement under the Securities Act or pursuant to an available exemption from, or in a transaction not subject to, the registration requirements of the Securities Act, including pursuant to Rule 144A to a Person that the seller and any person acting on its behalf reasonably believes is a QIB purchasing for its own account or for the account of a QIB. Such Purchaser understands and acknowledges that the Notes have not been registered under the Securities Act and may not be offered or sold within the United States or to, or for the account or benefit of, U.S. persons except as set forth in the Transaction Documents.

The Company acknowledges and agrees that the representations contained in this Section 3.2 shall not modify, amend or affect such Purchaser's right to rely on the Company's representations and warranties contained in this Agreement or any representations and warranties contained in any other Transaction Document or any other document or instrument executed and/or delivered in connection with this Agreement or the consummation of the transactions contemplated hereby, except as set forth in Section 3.1(v) and Section 3.1(bb). Notwithstanding the foregoing, for the avoidance of doubt, nothing contained herein shall constitute a representation or warranty, or preclude any actions, with respect to locating or borrowing shares in order to effect Short Sales or similar transactions.

#### **ARTICLE IV. OTHER AGREEMENTS OF THE PARTIES**

##### **4.1 Transfer Restrictions.**

(a) Each Purchaser of Notes will take reasonable steps to inform, and cause each of its Affiliates to take reasonable steps to inform, persons acquiring the Notes from such Purchaser or Affiliate, as the case may be, that the Securities (A) have not been and will not be registered under the Securities Act, (B) are being sold to them without registration under the Securities Act in reliance on Rule 144A or in accordance with another exemption from registration under the Securities Act, as the case may be, and (C) may not be offered, sold or otherwise transferred except (1) to the Company, or (2) in accordance with (x) Rule 144A to a person whom the seller reasonably

believes is a qualified institutional buyer that is purchasing such Notes for its own account or for the account of a qualified institutional buyer to whom notice is given that the offer, sale or transfer is being made in reliance on Rule 144A or (y) pursuant to another available exemption from registration under the Securities Act. In addition, the Underlying Shares may only be disposed of in compliance with state and federal securities laws. In connection with any transfer of Securities other than pursuant to an effective registration statement or Rule 144, to the Company or to an Affiliate of a Purchaser or in connection with a pledge as contemplated in Section 4.1(b), the Company may require the transferor thereof to provide to the Company an opinion of counsel selected by the transferor and reasonably acceptable to the Company (such acceptance not to be unreasonably withheld, conditioned or delayed), the form and substance of which opinion shall be reasonably satisfactory to the Company, to the effect that such transfer does not require registration of such transferred Securities under the Securities Act.

(b) Except as otherwise provided in the Indenture, the Purchasers agree to the imprinting, so long as is required by this Section 4.1, of a legend on any of the Securities in the forms set forth in the Indenture.

The Company acknowledges and agrees that a Purchaser may from time to time pledge pursuant to a bona fide margin agreement with a registered broker-dealer or grant a security interest in some or all of the Securities to a financial institution that is an "accredited investor" as defined in Rule 501(a) under the Securities Act and, if required under the terms of such arrangement, such Purchaser may transfer pledged or secured Securities to the pledgees or secured parties. Such a pledge or transfer would not be subject to approval of the Company and no legal opinion of legal counsel of the pledgee, secured party or pledgor shall be required in connection therewith. Further, no notice shall be required of such pledge. At the appropriate Purchaser's expense, the Company will execute and deliver such reasonable documentation as a pledgee or secured party of Securities may reasonably request in connection with a pledge or transfer of the Securities, provided, that if the Securities are subject to registration pursuant to the Registration Rights Agreement, the preparation and filing of any required prospectus supplement under Rule 424(b)(3) under the Securities Act or other applicable provision of the Securities Act to appropriately amend the list of Selling Stockholders (as defined in the Registration Rights Agreement) thereunder shall be at the Company's expense.

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(c) Certificates evidencing the Underlying Shares shall not contain any legend (including the legend set forth in Section 4.1(b) hereof): (i) from and after a registration statement (including the Registration Statement) covering the resale of such security is declared effective under the Securities Act, (ii) following any sale of such Underlying Shares pursuant to Rule 144, (iii) if such Underlying Shares are eligible for sale under Rule 144, without the requirement for the Company to be in compliance with the current public information required under Rule 144 as to such Underlying Shares and without volume or manner-of-sale restrictions, or (iv) if such legend is not required under applicable requirements of the Securities Act (including judicial interpretations and pronouncements issued by the staff of the Commission). The Company shall cause its counsel to issue a legal opinion to the Transfer Agent or the Purchaser promptly after the Effective Date if required by the Transfer Agent to effect the removal of the legend hereunder, or if requested by a Purchaser, respectively. If all or any portion of a Convertible Note is converted at a time when there is an effective registration statement to cover the resale of the Underlying Shares, or if such Underlying Shares may be sold under Rule 144 as to such Underlying Shares and without volume or manner-of-sale restrictions or if such legend is not otherwise required under applicable requirements of the Securities Act (including judicial interpretations and pronouncements issued by the staff of the Commission) then such Underlying Shares shall be issued free of all legends. The Company agrees that following the Effective Date or at such time as such legend is no longer required under this Section 4.1(c), it will, no later than the earlier of (i) one (1) Trading Day and (ii) the number of Trading Days comprising the Standard Settlement Period (as defined below) following the delivery by a Purchaser to the Company or the Transfer Agent of a certificate representing Underlying Shares, as applicable, issued with a restrictive legend (such date, the "Legend Removal Date"), electronically deliver or, at such Purchaser's election, cause to be delivered to such Purchaser a certificate representing such shares that is free from all restrictive and other legends. The Company may not make any notation on its records or give instructions to the Transfer Agent that enlarge the restrictions on transfer set forth in this Section 4. Certificates for Underlying Shares subject to legend removal hereunder shall be transmitted by the Transfer Agent to the Purchaser by crediting the account of the Purchaser's prime broker with the Depository Trust Company System as directed by such Purchaser. As used herein, "Standard Settlement Period" means the standard settlement period, expressed in a number of Trading Days, on the Company's primary Trading Market with respect to the Ordinary Shares as in effect on the date of delivery of a certificate representing Underlying Shares, as applicable, issued with a restrictive legend.

(d) In addition to such Purchaser's other available remedies, the Company shall pay to a Purchaser, in cash, (i) as partial liquidated damages and not as a penalty, for each \$1,000 of Underlying Shares (based on the VWAP of the Ordinary Shares on the date such Securities are submitted to the Transfer Agent) delivered for removal of the restrictive legend and subject to Section 4.1(c), \$10 per Trading Day (increasing to \$20 per Trading Day five (5) Trading Days after the Legend Removal Date) for each Trading Day after the Legend Removal Date until such certificate is delivered without a legend and (ii) if the Company fails to (a) issue and deliver (or cause to be delivered) to a Purchaser by the Legend Removal Date a certificate representing the Securities so delivered to the Company by such Purchaser that is free from all restrictive and other legends and (b) if after the Legend Removal Date such Purchaser purchases (in an open market transaction or otherwise) Ordinary Shares to deliver in satisfaction of a sale by such Purchaser of all or any portion of the number of Ordinary Shares, or a sale of a number of Ordinary Shares equal to all or any portion of the number of Ordinary Shares that such Purchaser anticipated receiving from the Company without any restrictive legend, then, an amount equal to the excess of such Purchaser's total purchase price (including brokerage commissions and other out-of-pocket expenses, if any) for the Ordinary Shares so purchased (including brokerage commissions and other out-of-pocket expenses, if any) (the "Buy-In Price") over the product of (A) such number of Underlying Shares that the Company was required to deliver to such Purchaser by the Legend Removal Date multiplied by (B) the lowest closing sale price of the Ordinary Shares on any Trading Day during the period commencing on the date of the delivery by such Purchaser to the Company of the applicable Underlying Shares (as the case may be) and ending on the date of such delivery and payment under this clause (ii).

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(e) Each Purchaser, severally and not jointly with the other Purchasers, agrees with the Company that such Purchaser will sell any Securities pursuant to either the registration requirements of the Securities Act, including any applicable prospectus delivery requirements, or an exemption therefrom, and that if Securities are sold pursuant to a Registration Statement, they will be sold in compliance with the plan of distribution set forth therein, and acknowledges that the removal of the restrictive legend from certificates representing Securities as set forth in this Section 4.1 is predicated upon the Company's reliance upon this understanding.

(f) The Company agrees to reasonably cooperate with any Purchaser in connection with any proposed transfer of Securities and by instructing the Transfer Agent to effectuate any transfer that complies with this Section 4.1.

**4.2 Acknowledgment of Dilution.** The Company acknowledges that the issuance of the Securities may result in dilution of the outstanding Ordinary Shares, which dilution may be substantial under certain market conditions. The Company further acknowledges that its obligations under the Transaction Documents, including, without limitation, its obligation to issue the Underlying Shares pursuant to the Transaction Documents, are unconditional and absolute and not subject to any right of set off, counterclaim, delay or reduction, regardless of the effect of any such dilution or any claim the Company may have against any Purchaser and regardless of the dilutive effect that such issuance may have on the ownership of the other stockholders of the Company.

#### **4.3 Furnishing of Information: Public Information.**

(a) Until the earlier of the time that no Purchaser owns Securities, the Company covenants to use its reasonable best efforts to maintain the registration of the Ordinary Shares under Section 12(b) or 12(g) of the Exchange Act and to timely file (or obtain extensions in respect thereof and file within the applicable grace period) all

reports required to be filed by the Company after the date hereof pursuant to the Exchange Act even if the Company is not then subject to the reporting requirements of the Exchange Act.

(b) At any time during the period commencing from the six (6) month anniversary of the date hereof and ending at such time that all of the Securities may be sold without the requirement for the Company to be in compliance with Rule 144(c)(1) and otherwise without restriction or limitation pursuant to Rule 144, if the Company (i) shall fail for any reason to satisfy the current public information requirement under Rule 144(c) or (ii) has ever been an issuer described in Rule 144(i)(1)(i) or becomes an issuer in the future, and the Company shall fail to satisfy any condition set forth in Rule 144(i)(2) (a “Public Information Failure”) then, in addition to such Purchaser’s other available remedies, the Company shall pay to a Purchaser, in cash, as partial liquidated damages and not as a penalty, by reason of any such delay in or reduction of its ability to sell the Securities, an amount in cash equal to one percent (1.0%) of the Principal Amount then outstanding on the day of a Public Information Failure and on every thirtieth (30<sup>th</sup>) day (pro rated for periods totaling less than thirty days) thereafter until the earlier of (a) the date such Public Information Failure is cured and (b) such time that such public information is no longer required for the Purchasers to transfer the Underlying Shares pursuant to Rule 144. The payments to which a Purchaser shall be entitled pursuant to this Section 4.3(b) are referred to herein as “Public Information Failure Payments.” Public Information Failure Payments shall be paid on the earlier of (i) the last day of the calendar month during which such Public Information Failure Payments are incurred and (ii) the third (3<sup>rd</sup>) Business Day after the event or failure giving rise to the Public Information Failure Payments is cured. In the event the Company fails to make Public Information Failure Payments in a timely manner, such Public Information Failure Payments shall bear interest at the rate of 1.5% per month (prorated for partial months) until paid in full. Nothing herein shall limit such Purchaser’s right to pursue actual damages for the Public Information Failure, and such Purchaser shall have the right to pursue all remedies available to it at law or in equity including, without limitation, a decree of specific performance and/or injunctive relief.

**4.4 Integration.** The Company shall not sell, offer for sale or solicit offers to buy or otherwise negotiate in respect of any security (as defined in Section 2 of the Securities Act) that would be integrated with the offer or sale of the Securities in a manner that would require the registration under the Securities Act of the sale of the Securities or that would be integrated with the offer or sale of the Securities for purposes of the rules and regulations of any Trading Market such that it would require shareholder approval prior to the closing of such other transaction unless shareholder approval is obtained before the closing of such subsequent transaction.

**4.5 Conversion Procedures.** Each form of Notice of Conversion included in the Convertible Notes set forth the totality of the procedures required of the Purchasers in order to convert the Convertible Notes. Without limiting the preceding sentences, no ink-original Notice of Conversion shall be required, nor shall any medallion guarantee (or other type of guarantee or notarization) of any Notice of Conversion form be required in order to convert the Convertible Notes. No additional legal opinion, other information or instructions shall be required of the Purchasers to convert their Convertible Notes. The Company shall honor conversions of the Convertible Notes and shall deliver Underlying Shares in accordance with the terms, conditions and time periods set forth in the Transaction Documents.

**4.6 Securities Laws Disclosure: Publicity.** The Company shall (a) by the Disclosure Time, issue a press release in form and substance reasonably acceptable to a majority in interest of the Purchasers disclosing the material terms of the transactions contemplated hereby, and (b) file a Report of Foreign Private Issuer on Form 6-K, including the Transaction Documents as exhibits thereto, with the Commission by the Closing. From and after the issuance of such press release, the Company represents to the Purchasers that it shall have publicly disclosed all material, non-public information delivered to any of the Purchasers by the Company or any of its Subsidiaries, or any of their respective officers, directors, employees, Affiliates or agents, including without limitation, the Placement Agents, in connection with the transactions contemplated by the Transaction Documents. In addition, effective upon the issuance of such press release, the Company acknowledges and agrees that any and all confidentiality or similar obligations under any agreement, whether written or oral, between the Company, any of its Subsidiaries or any of their respective officers, directors, agents, employees, Affiliates or agents, including, without limitation, the Placement Agents, on the one hand, and any of the Purchasers or any of their Affiliates on the other hand, shall terminate and be of no further force or effect. The Company understands and confirms that each Purchaser shall be relying on the foregoing covenant in effecting transactions in securities of the Company. The Company and each Purchaser shall consult with each other in issuing any other press releases with respect to the transactions contemplated hereby, and neither the Company nor any Purchaser shall issue any such press release nor otherwise make any such public statement without the prior consent of the Company, with respect to any press release of any Purchaser, or without the prior consent of each Purchaser, with respect to any press release of the Company, which consent shall not unreasonably be withheld or delayed, except if such disclosure is required by law (other than any filing required to be made by any Purchaser under Section 13 or Section 16 of the Exchange Act), in which case the disclosing party shall promptly provide the other party with prior notice of such public statement or communication. Notwithstanding the foregoing, the Company shall not publicly disclose the name of any Purchaser, or include the name of any Purchaser in any filing with the Commission or any regulatory agency or Trading Market, without the prior written consent of such Purchaser, except (a) as required by federal securities law in connection with (i) any registration statement contemplated by the Registration Rights Agreement and (ii) the filing of final Transaction Documents with the Commission and (b) to the extent such disclosure is required by law or Trading Market regulations, in which case the Company shall provide the Purchasers with prior notice of such disclosure permitted under this clause (b) and reasonably cooperate with such Purchaser regarding such disclosure.

**4.7 Shareholder Rights Plan.** No claim will be made or enforced by the Company or, with the consent of the Company, any other Person, that any Purchaser is an acquiring person under any control share acquisition, business combination, poison pill (including any distribution under a rights agreement) or similar anti-takeover plan or arrangement in effect or hereafter adopted by the Company, or that any Purchaser could be deemed to trigger the provisions of any such plan or arrangement, by virtue of receiving Securities under the Transaction Documents or under any other agreement between the Company and the Purchasers.

**4.8 Non-Public Information.** Except with respect to the material terms and conditions of the transactions contemplated by the Transaction Documents, which shall be disclosed pursuant to Section 4.6, the Company covenants and agrees that neither it, nor any other Person acting on its behalf will provide any Purchaser or its agents or counsel with any information that constitutes, or the Company reasonably believes constitutes, material non-public information, unless prior thereto such Purchaser shall have consented in writing to the receipt of such information and agreed in writing with the Company to keep such information confidential. The Company understands and confirms that each Purchaser shall be relying on the foregoing covenant in effecting transactions in securities of the Company. To the extent that the Company, any of its Subsidiaries, or any of their respective officers, director, agents, employees or Affiliates delivers any material, non-public information to a Purchaser without such Purchaser’s consent, the Company hereby covenants and agrees that such Purchaser shall not have any duty of confidentiality to the Company, any of its Subsidiaries, or any of their respective officers, directors, employees, Affiliates, or agents, including, without limitation, the Placement Agents, or a duty to the Company, any of its Subsidiaries or any of their respective officers, directors, employees, Affiliates or agents, including, without limitation, the Placement Agents, not to trade on the basis of, such material, non-public information, provided that the Purchaser shall remain subject to applicable law. To the extent that any notice provided pursuant to any Transaction Document constitutes, or contains, material, non-public information regarding the Company or any Subsidiaries, the Company shall simultaneously with the delivery of such notice file such notice with the Commission pursuant to a Report of Foreign Private Issuer on Form 6-K. The Company understands and confirms that each Purchaser shall be relying on the foregoing covenant in effecting transactions in securities of the Company.

**4.9 Use of Proceeds.** The Company shall use the net proceeds from the sale of the Securities hereunder to fund advance payments required to secure committed data center capacity and commence the equity portion of purchases of data center equipment for deployment pursuant to the Company’s Neutra DC Batam project in Indonesia, announced on June 23, 2026, with any remaining proceeds to be used for general corporate purposes, and shall not use such proceeds: (a) for the satisfaction of any portion of the Company’s debt (other than payment of trade payables in the ordinary course of the Company’s business and prior practices), (b) for the redemption of any Ordinary Shares or Ordinary Share Equivalents, (c) for the settlement of any outstanding litigation or (d) in violation of FCPA or OFAC regulations.

**4.10 Indemnification of Purchasers.** Subject to the provisions of this Section 4.10, the Company will indemnify and hold each Purchaser and its directors, officers, shareholders, members, partners, employees and agents (and any other Persons with a functionally equivalent role of a Person holding such titles notwithstanding a lack of such title or any other title), each Person who controls such Purchaser (within the meaning of Section 15 of the Securities Act and Section 20 of the Exchange Act), and the directors, officers, shareholders, agents, members, partners or employees (and any other Persons with a functionally equivalent role of a Person holding such titles notwithstanding a lack of such title or any other title) of such controlling persons (each, a “Purchaser Party”) harmless from any and all losses, liabilities, obligations, claims, contingencies, damages, costs and expenses, including all judgments, amounts paid in settlements, court costs and reasonable attorneys’ fees and costs of investigation (including reasonable fees and expenses of counsel incurred in connection with enforcing this indemnity) that any such Purchaser Party may suffer or incur as a result of or relating to (a) any breach of any of the representations, warranties, covenants or agreements made by the Company in this Agreement or in the other Transaction Documents or (b) any action instituted against the Purchaser Parties in any capacity, or any of them or their respective Affiliates, by any stockholder of the Company who is not an Affiliate of such Purchaser Party, with respect to any of the transactions contemplated by the Transaction Documents (unless such action is solely based upon a material breach of such Purchaser Party’s representations, warranties or covenants under the Transaction Documents or any agreements or understandings such Purchaser Party may have with any such stockholder or any violations by such Purchaser Party of state or federal securities laws or any conduct by such Purchaser Party which is finally judicially determined to constitute fraud, gross negligence or willful misconduct). If any action shall be brought against any Purchaser Party in respect of which indemnity may be sought pursuant to this Agreement, such Purchaser Party shall promptly notify the Company in writing, and the Company shall have the right to assume the defense thereof with counsel of its own choosing reasonably acceptable to the Purchaser Party. Any Purchaser Party shall have the right to employ separate counsel in any such action and participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such Purchaser Party except to the extent that (i) the employment thereof has been specifically authorized by the Company in writing, (ii) the Company has failed after a reasonable period of time to assume such defense and to employ counsel or (iii) in such action there is, in the reasonable opinion of counsel, a material conflict on any material issue between the position of the Company and the position of such Purchaser Party, in which case the Company shall be responsible for the reasonable fees and expenses of no more than one such separate counsel. The Company will not be liable to any Purchaser Party under this Agreement (y) for any settlement by a Purchaser Party effected without the Company’s prior written consent, which shall not be unreasonably withheld or delayed; or (z) to the extent, but only to the extent that a loss, claim, damage or liability is attributable to any Purchaser Party’s breach of any of the representations, warranties, covenants or agreements made by such Purchaser Party in this Agreement or in the other Transaction Documents. The Company shall not, without the prior written consent of the Purchaser Party, effect any settlement of any pending or threatened action or proceeding in respect of which any Purchaser Party is or could have been a party and indemnity could have been sought hereunder by such Purchaser Party, unless such settlement includes an unconditional release of such Purchaser Party from all liability on claims that are the subject matter of such proceeding and does not include any statements as to or any findings of fault, culpability or failure to act by or on behalf of any Purchaser Party. The indemnification required by this Section 4.10 shall be made by periodic payments of the amount thereof during the course of the investigation or defense, as and when bills are received or are incurred. The indemnity agreements contained herein shall be in addition to any cause of action or similar right of any Purchaser Party against the Company or others and any liabilities the Company may be subject to pursuant to law.

**4.11 Reserved.**

**4.12 Subsequent Equity Sales.**

(a) From the date hereof until 30 days after the Effective Date, neither the Company nor any Subsidiary shall (i) issue, enter into any agreement to issue or announce the issuance or proposed issuance of any Ordinary Shares or Ordinary Share Equivalents or (ii) file any registration statement or any amendment or supplement thereto, in each case other than as contemplated pursuant to the Registration Rights Agreement, provided that clause (i) above shall not apply to the issuance of, entry into any agreement to issue, or announcement of the issuance or proposed issuance of, any Ordinary Shares or Ordinary Share Equivalents by the Company in connection with project financing arrangements entered into by one or more Subsidiaries of the Company, so long as any recipient of such Ordinary Shares or Ordinary Share Equivalents agrees that it will not sell, transfer, pledge, or otherwise dispose of such Ordinary Shares or Ordinary Share Equivalents during the period set forth above in this Section 4.12.

(b) Notwithstanding the foregoing, this Section 4.12 shall not apply in respect of an Exempt Issuance.

**4.13 Equal Treatment of Purchasers.** No consideration (including any modification of any Transaction Document) shall be offered or paid to any Person to amend or consent to a waiver or modification of any provision of the Transaction Documents unless the same consideration is also offered to all of the parties to such Transaction Documents. Further, the Company shall not make any payment of principal or interest on the Convertible Notes in amounts which are disproportionate to the respective principal amounts outstanding on the Convertible Notes at any applicable time. For clarification purposes, this provision constitutes a separate right granted to each Purchaser by the Company and negotiated separately by each Purchaser, and is intended for the Company to treat the Purchasers as a class and shall not in any way be construed as the Purchasers acting in concert or as a group with respect to the purchase, disposition or voting of Securities or otherwise.

**4.14 Certain Transactions and Confidentiality.** Each Purchaser, severally and not jointly with the other Purchasers, covenants that neither it, nor any Affiliate acting on its behalf or pursuant to any understanding with it will execute any purchases or sales of any of the Company’s securities during the period commencing with the date of this Agreement and ending at the earliest of (i) the date of the press release referenced in Section 4.6(a) and (ii) the termination of this Agreement (such earliest date, the “End Date”). Each Purchaser, severally and not jointly with the other Purchasers, covenants that until the End Date, such Purchaser will maintain the confidentiality of the existence and terms of this transaction and the information included in the Disclosure Schedules (other than as disclosed to its legal and other representatives). Notwithstanding the foregoing, and notwithstanding anything contained in this Agreement to the contrary, the Company expressly acknowledges and agrees that (i) no Purchaser makes any representation, warranty or covenant hereby that it will not engage in effecting transactions in any securities of the Company after the End Date, (ii) no Purchaser shall be restricted or prohibited from effecting any transactions in any securities of the Company in accordance with applicable securities laws from and after the End Date and (iii) no Purchaser shall have any duty of confidentiality or duty not to trade in the securities of the Company to the Company, any of its Subsidiaries, or any of their respective officers, directors, employees, Affiliates or agent, including, without limitation, the Placement Agents, after the End Date. Notwithstanding the foregoing, in the case of a Purchaser that is a multi-managed investment vehicle whereby separate portfolio managers manage separate portions of such Purchaser’s assets and the portfolio managers have no direct knowledge of the investment decisions made by the portfolio managers managing other portions of such Purchaser’s assets, the covenant set forth above shall only apply with respect to the portion of assets managed by the portfolio manager that made the investment decision to purchase the Securities covered by this Agreement.

**4.15 Form D; Blue Sky Filings.** The Company agrees to timely file a Form D with respect to the Securities as required under Regulation D and to provide a copy thereof, promptly upon request of any Purchaser. The Company shall take such action as the Company shall reasonably determine is necessary in order to obtain an exemption for, or to qualify the Securities for, sale to the Purchasers at the Closing under applicable securities or “Blue Sky” laws of the states of the United States, and shall provide evidence of such actions promptly upon request of any Purchaser.

**4.16 Lock-Up Agreements.** The Company shall not amend, modify, waive or terminate any provision of any of the Lock-Up Agreements except to extend the term of the lock-up period and shall enforce the provisions of each Lock-Up Agreement in accordance with its terms. If any party to a Lock-Up Agreement breaches any provision of a Lock-Up Agreement, the Company shall promptly use its commercially reasonable efforts to seek specific performance of the material terms of such Lock-Up Agreement.

4.17 DTC Eligibility. For the avoidance of doubt, as required by Section 2.3(b)(ix), the Notes being issued at Closing will be eligible for deposit and book-entry delivery through DTC. The Company agrees that it will use its commercially reasonable efforts to have the unrestricted CUSIP for the Notes receive DTC Eligibility within two Trading Days following the Effectiveness Date (as such term is defined in the Registration Rights Agreement). The Company shall provide written notice to the Purchasers within five Trading Days following the date that it receives DTC Eligibility that the Convertible Notes are eligible for book-entry delivery through DTC (the “DTC Eligibility Notice”).

## ARTICLE V. MISCELLANEOUS

5.1 Termination. This Agreement may be terminated by any Purchaser, as to such Purchaser's obligations hereunder only and without any effect whatsoever on the obligations between the Company and the other Purchasers, by written notice to the other parties, if the Closing has not been consummated on or before the fifth (5<sup>th</sup>) Trading Day following the date hereof, provided, however, that no such termination will affect the right of any party to sue for any breach by any other party (or parties).

5.2 Fees and Expenses. Except as expressly set forth in the Transaction Documents to the contrary, each party shall pay the fees and expenses of its advisers, counsel, accountants and other experts, if any, and all other expenses incurred by such party incident to the negotiation, preparation, execution, delivery and performance of this Agreement. The Company shall pay all Transfer Agent fees (including, without limitation, any fees required for same-day processing of any instruction letter delivered by the Company and any conversion or exercise notice delivered by a Purchaser), stamp taxes and other taxes and duties levied in connection with the delivery of any Securities to the Purchasers.

5.3 Entire Agreement. The Transaction Documents, together with the exhibits and schedules thereto, contain the entire understanding of the parties with respect to the subject matter hereof and thereof and supersede all prior agreements and understandings, oral or written, with respect to such matters, which the parties acknowledge have been merged into such documents, exhibits and schedules.

5.4 Notices. Any and all notices or other communications or deliveries required or permitted to be provided hereunder shall be in writing and shall be deemed given and effective on the earliest of: (a) the time of transmission, if such notice or communication is delivered via email attachment at the email address as set forth on the signature pages attached hereto at or prior to 5:30 p.m. (New York City time) on a Trading Day, (b) the next Trading Day after the time of transmission, if such notice or communication is delivered via email attachment as set forth on the signature pages attached hereto on a day that is not a Trading Day or later than 5:30 p.m. (New York City time) on any Trading Day, (c) the second (2<sup>nd</sup>) Trading Day following the date of mailing, if sent by U.S. nationally recognized overnight courier service or (d) upon actual receipt by the party to whom such notice is required to be given. The address for such notices and communications shall be as set forth on the signature pages attached hereto.

5.5 Amendments; Waivers. No provision of this Agreement, or (prior to the Closing) the Indenture or any other Transaction Document, may be waived, modified, supplemented or amended except in a written instrument signed, in the case of an amendment, by the Company and Purchasers which purchased at least 50.1% in interest of the Convertible Notes based on the initial Subscription Amounts hereunder or, in the case of a waiver, by the party against whom enforcement of any such waived provision is sought, provided that if any amendment, modification or waiver disproportionately and adversely impacts a Purchaser (or multiple Purchasers), the consent of such disproportionately impacted Purchaser (or group of Purchasers) shall also be required; provided, further, that any amendment, modification, supplement or waiver that (i) changes or affects the interest rate, maturity date, conversion price, or payment terms of the Convertible Notes, (ii) subordinates the Convertible Notes to other indebtedness, or (iii) releases any collateral or guarantees securing the Convertible Notes shall require the consent of each Purchaser. No waiver of any default with respect to any provision, condition or requirement of this Agreement shall be deemed to be a continuing waiver in the future or a waiver of any subsequent default or a waiver of any other provision, condition or requirement hereof, nor shall any delay or omission of any party to exercise any right hereunder in any manner impair the exercise of any such right. Any proposed amendment or waiver that disproportionately, materially and adversely affects the rights and obligations of any Purchaser relative to the comparable rights and obligations of the other Purchasers shall require the prior written consent of such adversely affected Purchaser. Any amendment effected in accordance with this Section 5.5 shall be binding upon each Purchaser and holder of Securities and the Company.

5.6 Headings. The headings herein are for convenience only, do not constitute a part of this Agreement and shall not be deemed to limit or affect any of the provisions hereof.

5.7 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and permitted assigns. The Company may not assign this Agreement or any rights or obligations hereunder without the prior written consent of each Purchaser (other than by merger). Any Purchaser may assign any or all of its rights under this Agreement to any Person to whom such Purchaser assigns or transfers any Securities, provided that such transferee agrees in writing to be bound, with respect to the transferred Securities, by the provisions of the Transaction Documents that apply to the “Purchasers.”

5.8 No Third-Party Beneficiaries. The Placement Agents shall be the third-party beneficiaries of the representations, warranties and covenants of the Company in Section 3.1 and the representations, warranties and covenants of the Purchasers in Section 3.2. This Agreement is intended for the benefit of the parties hereto and their respective successors and permitted assigns and is not for the benefit of, nor may any provision hereof be enforced by, any other Person, except as otherwise set forth in Section 4.10 and this Section 5.8.

5.9 Governing Law. All questions concerning the construction, validity, enforcement and interpretation of the Transaction Documents shall be governed by and construed and enforced in accordance with the internal laws of the State of New York, without regard to the principles of conflicts of law thereof. Each party agrees that all legal Proceedings concerning the interpretations, enforcement and defense of the transactions contemplated by this Agreement and any other Transaction Documents (whether brought against a party hereto or its respective affiliates, directors, officers, shareholders, partners, members, employees or agents) shall be commenced exclusively in the state and federal courts sitting in the City of New York. Each party hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in the City of New York, Borough of Manhattan for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein (including with respect to the enforcement of any of the Transaction Documents), and hereby irrevocably waives, and agrees not to assert in any Action or Proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such Action or Proceeding is improper or is an inconvenient venue for such Proceeding. Each party hereby irrevocably waives personal service of process and consents to process being served in any such Action or Proceeding by mailing a copy thereof via registered or certified mail or overnight delivery (with evidence of delivery) to such party at the address in effect for notices to it under this Agreement and agrees that such service shall constitute good and

sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any other manner permitted by law. If any party shall commence an Action or Proceeding to enforce any provisions of the Transaction Documents, then, in addition to the obligations of the Company under Section 4.10, the prevailing party in such Action or Proceeding shall be reimbursed by the non-prevailing party for its reasonable attorneys' fees and other costs and expenses incurred with the investigation, preparation and prosecution of such Action or Proceeding.

5.10 Survival. The representations and warranties contained herein shall survive the Closing and the delivery of the Securities; provided that the representations and warranties contained in Article 3 shall not survive for a period longer than one year following the Closing Date.

5.11 Execution. This Agreement may be executed in two or more counterparts, all of which when taken together shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to each other party, it being understood that the parties need not sign the same counterpart. In the event that any signature is delivered by e-mail delivery of a ".pdf" format data file, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such ".pdf" signature page were an original thereof.

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5.12 Severability. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction to be invalid, illegal, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions set forth herein shall remain in full force and effect and shall in no way be affected, impaired or invalidated, and the parties hereto shall use their commercially reasonable efforts to find and employ an alternative means to achieve the same or substantially the same result as that contemplated by such term, provision, covenant or restriction. It is hereby stipulated and declared to be the intention of the parties that they would have executed the remaining terms, provisions, covenants and restrictions without including any of such that may be hereafter declared invalid, illegal, void or unenforceable.

5.13 Remedies. In addition to being entitled to exercise all rights provided herein or granted by law, including recovery of damages, each of the Purchasers and the Company will be entitled to specific performance under the Transaction Documents. The parties agree that monetary damages may not be adequate compensation for any loss incurred by reason of any breach of obligations contained in the Transaction Documents and hereby agree to waive and not to assert in any Action for specific performance of any such obligation the defense that a remedy at law would be adequate.

5.14 Usury. To the extent it may lawfully do so, the Company hereby agrees not to insist upon or plead or in any manner whatsoever claim, and will resist any and all efforts to be compelled to take the benefit or advantage of, usury laws wherever enacted, now or at any time hereafter in force, in connection with any Action or Proceeding that may be brought by any Purchaser in order to enforce any right or remedy under any Transaction Document. Notwithstanding any provision to the contrary contained in any Transaction Document, it is expressly agreed and provided that the total liability of the Company under the Transaction Documents for payments in the nature of interest shall not exceed the maximum lawful rate authorized under applicable law (the "Maximum Rate"), and, without limiting the foregoing, in no event shall any rate of interest or default interest, or both of them, when aggregated with any other sums in the nature of interest that the Company may be obligated to pay under the Transaction Documents exceed such Maximum Rate. It is agreed that if the maximum contract rate of interest allowed by law and applicable to the Transaction Documents is increased or decreased by statute or any official governmental action subsequent to the date hereof, the new maximum contract rate of interest allowed by law will be the Maximum Rate applicable to the Transaction Documents from the effective date thereof forward, unless such application is precluded by applicable law. If under any circumstances whatsoever, interest in excess of the Maximum Rate is paid by the Company to any Purchaser with respect to indebtedness evidenced by the Transaction Documents, such excess shall be applied by such Purchaser to the unpaid principal balance of any such indebtedness or be refunded to the Company, the manner of handling such excess to be at such Purchaser's election.

5.15 Independent Nature of Purchasers' Obligations and Rights. The obligations of each Purchaser under any Transaction Document are several and not joint with the obligations of any other Purchaser, and no Purchaser shall be responsible in any way for the performance or non-performance of the obligations of any other Purchaser under any Transaction Document. Nothing contained herein or in any other Transaction Document, and no action taken by any Purchaser pursuant hereto or thereto, shall be deemed to constitute the Purchasers as a partnership, an association, a joint venture or any other kind of entity, or create a presumption that the Purchasers are in any way acting in concert or as a group with respect to such obligations or the transactions contemplated by the Transaction Documents. Each Purchaser shall be entitled to independently protect and enforce its rights, including, without limitation, the rights arising out of this Agreement or out of the other Transaction Documents, and it shall not be necessary for any other Purchaser to be joined as an additional party in any Proceeding for such purpose. Each Purchaser has been represented by its own separate legal counsel in its review and negotiation of the Transaction Documents. For reasons of administrative convenience only, each Purchaser and its respective counsel have chosen to communicate with the Company through SMRH. SMRH does not represent any of the Purchasers and only represents the Placement Agents. The Company has elected to provide all Purchasers with the same terms and Transaction Documents for the convenience of the Company and not because it was required or requested to do so by any of the Purchasers. It is expressly understood and agreed that each provision contained in this Agreement and in each other Transaction Document is between the Company and a Purchaser, solely, and not between the Company and the Purchasers collectively and not between and among the Purchasers.

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5.16 Liquidated Damages. The Company's obligations to pay any partial liquidated damages or other amounts owing under the Transaction Documents is a continuing obligation of the Company and shall not terminate until all unpaid partial liquidated damages and other amounts have been paid notwithstanding the fact that the instrument or security pursuant to which such partial liquidated damages or other amounts are due and payable shall have been canceled.

5.17 Saturdays, Sundays, Holidays, etc. If the last or appointed day for the taking of any action or the expiration of any right required or granted herein shall not be a Business Day, then such action may be taken or such right may be exercised on the next succeeding Business Day.

5.18 Construction. The parties agree that each of them and/or their respective counsel have reviewed and had an opportunity to revise the Transaction Documents and, therefore, the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of the Transaction Documents or any amendments thereto. In addition, each and every reference to share prices and Ordinary Shares in any Transaction Document shall be subject to adjustment for reverse and forward stock splits, stock dividends, stock combinations and other similar transactions of the Ordinary Shares that occur after the date of this Agreement.

5.19 WAIVER OF JURY TRIAL. IN ANY ACTION, SUIT, OR PROCEEDING IN ANY JURISDICTION BROUGHT BY ANY PARTY AGAINST ANY OTHER PARTY, THE PARTIES EACH KNOWINGLY AND INTENTIONALLY, TO THE GREATEST EXTENT PERMITTED BY APPLICABLE LAW, HEREBY ABSOLUTELY, UNCONDITIONALLY, IRREVOCABLY AND EXPRESSLY WAIVES FOREVER TRIAL BY JURY.

*(Signature Pages Follow)*

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IN WITNESS WHEREOF, the parties hereto have caused this Securities Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

GORILLA TECHNOLOGY GROUP INC.

By: /s/ Jayesh Chandan  
Name: Jayesh Chandan  
Title: CEO & Chairman

Address for Notice: \*\*\*\*\*

With a copy to (which shall not constitute notice): \*\*\*\*\*

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK  
SIGNATURE PAGE FOR PURCHASER FOLLOWS]

[PURCHASER SIGNATURE PAGES TO GRRR SECURITIES PURCHASE AGREEMENT]

IN WITNESS WHEREOF, the undersigned have caused this Securities Purchase Agreement to be duly executed by their respective authorized signatories as of the date first indicated above.

NAME OF PURCHASER: \_\_\_\_\_

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

Email Address of Authorized Signatories:

Address for Notice to Purchaser:

Address for Delivery of Securities to Purchaser (if not same as address for notice):

Subscription Amount: \$ \_\_\_\_\_

Principal Amount: \$ \_\_\_\_\_

EIN Number:

Name of Purchaser's Broker-Dealer/Custodian:

Purchaser's Broker-Dealer/Custodian DTC Participant Number:

[SIGNATURE PAGE TO PURCHASE AGREEMENT]

Exhibit A

Form of Indenture

(see attached)

Exhibit B

Form of Registration Rights Agreement

(see attached)

REGISTRATION RIGHTS AGREEMENT

This Registration Rights Agreement (this "Agreement") is made and entered into as of July 17, 2026, between Gorilla Technology Group Inc., an exempt company incorporated under the laws of the Cayman Islands (the "Company"), and each of the several purchasers signatory hereto (each such purchaser, a "Purchaser" and, collectively, the "Purchasers").

This Agreement is made pursuant to the Securities Purchase Agreement, dated as of the date hereof, between the Company and each Purchaser (the "Purchase Agreement").

The Company and each Purchaser hereby agrees as follows:

1. Definitions.

**Capitalized terms used and not otherwise defined herein that are defined in the Purchase Agreement shall have the meanings given such terms in the Purchase Agreement.** As used in this Agreement, the following terms shall have the following meanings:

“Advice” shall have the meaning set forth in Section 6(c).

“Affiliate” means any person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a person, as such terms are used in and construed under Rule 405 under the Securities Act.

“Conversion Shares” means the Ordinary Shares issuable upon conversion of the Notes without giving effect to any limitation on conversions set forth in the Indenture.

“Effectiveness Date” means, with respect to the Initial Registration Statement required to be filed hereunder, the 60<sup>th</sup> calendar day following the date hereof (or, in the event of a “full review” by the Commission, the 90<sup>th</sup> calendar day following the date hereof) and with respect to any additional Registration Statements which may be required pursuant to Section 2(c) or Section 3(c), the 30<sup>th</sup> calendar day following the date on which an additional Registration Statement is required to be filed hereunder (or, in the event of a “full review” by the Commission, the 60<sup>th</sup> calendar day following the date such additional Registration Statement is required to be filed hereunder); provided, however, that in the event the Company is notified by the Commission that one or more of the above Registration Statements will not be reviewed or is no longer subject to further review and comments, the Effectiveness Date as to such Registration Statement shall be the fifth Trading Day following the date on which the Company is so notified if such date precedes the dates otherwise required above, provided, further, if such Effectiveness Date falls on a day that is not a Trading Day, then the Effectiveness Date shall be the next succeeding Trading Day.

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“Effectiveness Period” shall have the meaning set forth in Section 2(a).

“Event” shall have the meaning set forth in Section 2(d).

“Event Date” shall have the meaning set forth in Section 2(d).

“Filing Date” means, with respect to the Initial Registration Statement required hereunder, the 30<sup>th</sup> calendar day following the date hereof and, with respect to any additional Registration Statements which may be required pursuant to Section 2(c) or Section 3(c), the earliest practical date on which the Company is permitted by SEC Guidance to file such additional Registration Statement related to the Registrable Securities.

“Holder” or “Holders” means the holder or holders, as the case may be, from time to time of Registrable Securities.

“Indemnified Party” shall have the meaning set forth in Section 5(c).

“Indemnifying Party” shall have the meaning set forth in Section 5(c).

“Initial Registration Statement” means the initial Registration Statement filed pursuant to this Agreement.

“Losses” shall have the meaning set forth in Section 5(a).

“Opt-Out Notice” shall have the meaning set forth in Section 6(n).

“Ordinary Shares” means the Ordinary Shares of the Company, par value \$0.001 per share.

“Plan of Distribution” shall have the meaning set forth in Section 2(a).

“Prospectus” means the prospectus included in a Registration Statement (including, without limitation, a prospectus that includes any information previously omitted from a prospectus filed as part of an effective registration statement in reliance upon Rule 430A promulgated by the Commission pursuant to the Securities Act), as amended or supplemented by any prospectus supplement, with respect to the terms of the offering of any portion of the Registrable Securities covered by a Registration Statement, and all other amendments and supplements to the Prospectus, including post-effective amendments, and all material incorporated by reference or deemed to be incorporated by reference in such Prospectus.

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“Registrable Securities” means, as of any date of determination, (a) the Notes, (b) all Ordinary Shares issuable upon conversion of the Notes or interest on the Notes paid in Ordinary Shares (assuming such Notes are converted in full without regard to any conversion limitations therein), (c) any securities issued or then issuable upon any stock split, dividend or other distribution, recapitalization or similar event with respect to the foregoing; provided, however, that any such Registrable Securities shall cease to be Registrable Securities (and the Company shall not be required to maintain the effectiveness of any, or file another, Registration Statement hereunder with respect thereto) for so long as (i) a Registration Statement with respect to the sale of such Registrable Securities is declared effective by the Commission under the Securities Act and such Registrable Securities have been disposed of by the Holder in accordance with such effective Registration Statement, (ii) such Registrable Securities have been previously sold in accordance with Rule 144, or (iii) such securities become eligible for resale without volume or manner-of-sale restrictions and without current public information pursuant to Rule 144 as set forth in a written opinion letter to such effect, addressed, delivered and acceptable to the Transfer Agent and the affected Holders (assuming that such securities and any securities issuable upon exercise, conversion or exchange of which, or as a dividend upon which, such securities were issued or are issuable, were at no time held by any Affiliate of the Company), as reasonably determined by the Company, upon the advice of counsel to the Company.

“Registration Statement” means any registration statement of the Company filed with, or to be filed with, the Commission that covers the resale of the Registrable Securities as required hereunder, including any such registration statement required to be filed hereunder pursuant to Section 2(a) and any additional registration

statements contemplated by Section 2(c) or Section 3(c), which may include a shelf registration statement of the Company on Form F-3 (including a universal shelf registration statement registering securities to be offered on a primary basis by the Company and/or a secondary basis by selling securityholders, including the Holders), together with, in each case, the Prospectus (including any prospectus supplement relating to the Registrable Securities), amendments and supplements to any such registration statement or Prospectus, including pre- and post-effective amendments, all exhibits thereto, and all material incorporated by reference or deemed to be incorporated by reference in any such registration statement.

“Rule 415” means Rule 415 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended or interpreted from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same purpose and effect as such Rule.

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“Rule 424” means Rule 424 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended or interpreted from time to time, or any similar rule or regulation hereafter adopted by the Commission having substantially the same purpose and effect as such Rule.

“Selling Securityholder Questionnaire” shall have the meaning set forth in Section 3(a).

“SEC Guidance” means (i) any publicly-available written or oral guidance of the Commission staff, or any comments, requirements or requests of the Commission staff and (ii) the Securities Act.

## 2. Shelf Registration.

(a) On or prior to each Filing Date, the Company shall prepare and file with the Commission a Registration Statement covering the resale of all of the Registrable Securities that are not then registered on an effective Registration Statement for an offering to be made on a continuous basis pursuant to Rule 415. Each Registration Statement filed hereunder shall be on Form F-3 (except if the Company is not then eligible or it is not advisable based on SEC Guidance to register for resale the Registrable Securities on Form F-3, in which case such registration shall be on another appropriate form in accordance herewith, subject to the provisions of Section 2(e)) and shall contain (unless otherwise directed by at least 85% in interest of the Holders) substantially the “Plan of Distribution” attached hereto as Annex A; provided, however, that no Holder shall be required to be named as an “underwriter” without such Holder’s express prior written consent. Subject to the terms of this Agreement, the Company shall use its reasonable best efforts to cause a Registration Statement filed under this Agreement (including, without limitation, under Section 3(c)) to be declared effective under the Securities Act as promptly as possible after the filing thereof, but in any event no later than the applicable Effectiveness Date, and shall use its reasonable best efforts to keep such Registration Statement continuously effective under the Securities Act until the date that all Registrable Securities covered by such Registration Statement (i) have been sold, thereunder or pursuant to Rule 144, or (ii) may be sold by a non-Affiliate of the Company without volume or manner-of-sale restrictions pursuant to Rule 144 without the requirement for the Company to be in compliance with the current public information requirement under Rule 144, as determined by the counsel to the Company pursuant to a written opinion letter to such effect, addressed and acceptable to the Transfer Agent and the affected Holders (the “Effectiveness Period”). The Company shall telephonically request effectiveness of a Registration Statement as of 5:00 p.m. (New York City time) on a Trading Day. The Company shall immediately notify the Holders via e-mail of the effectiveness of a Registration Statement on the same Trading Day that the Company telephonically confirms effectiveness with the Commission, which shall be the date requested for effectiveness of such Registration Statement. The Company shall, by 9:30 a.m. (New York City time) on the Trading Day after the effective date of such Registration Statement, file a final Prospectus with the Commission as required by Rule 424. Failure to so notify the Holder within one (1) Trading Day of such notification of effectiveness or failure to file a final Prospectus as foreshad shall be deemed an Event under Section 2(d).

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(b) Notwithstanding the registration obligations set forth in Section 2(a), if the Commission informs the Company that all of the Registrable Securities cannot, as a result of the application of Rule 415, be registered for resale as a secondary offering on a single registration statement, the Company agrees to promptly inform each of the Holders thereof and use its commercially reasonable efforts to file amendments to the Initial Registration Statement as required by the Commission, covering the maximum number of Registrable Securities permitted to be registered by the Commission, on Form F-3 or such other form available to register for resale the Registrable Securities as a secondary offering, subject to the provisions of Section 2(e); with respect to filing on Form F-3 or other appropriate form, and subject to the provisions of Section 2(d) with respect to the payment of liquidated damages; provided, however, that prior to filing any such amendment, the Company shall be obligated to use reasonably diligent efforts to advocate with the Commission for the registration of all of the Registrable Securities in accordance with the SEC Guidance, including without limitation, Compliance and Disclosure Interpretation 612.09.

(c) Notwithstanding any other provision of this Agreement and subject to the payment of liquidated damages pursuant to Section 2(d), if the Commission or any SEC Guidance sets forth a limitation on the number of Registrable Securities permitted to be registered on a particular Registration Statement as a secondary offering (and notwithstanding that the Company used reasonably diligent efforts to advocate with the Commission for the registration of all or a greater portion of Registrable Securities), unless otherwise directed in writing by a Holder as to its Registrable Securities (provided that any such direction shall apply solely to such Holder’s own allocation and shall not have the effect of increasing the cutback applied to any other Holder), the number of Registrable Securities to be registered on such Registration Statement will be reduced as follows:

- a. First, the Company shall reduce or eliminate any securities to be included other than Registrable Securities; and
- b. Second, the Company shall reduce Registrable Securities represented by Conversion Shares (applied, in the case that some Conversion Shares may be registered, to the Holders on a pro rata basis based on the total number of unregistered Conversion Shares held by such Holders).

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In the event of a cutback hereunder, the Company shall give the Holder at least three (3) Trading Days prior written notice along with the calculations as to such Holder’s allotment. In the event the Company amends the Initial Registration Statement in accordance with the foregoing, the Company will use its reasonable best efforts to file with the Commission, as promptly as allowed by Commission or SEC Guidance provided to the Company or to registrants of securities in general, one or more registration statements on Form F-3 or such other form available to register for resale those Registrable Securities that were not registered for resale on the Initial Registration Statement, as amended.

- (d) If: (i) the Initial Registration Statement is not filed on or prior to its Filing Date (if the Company files the Initial Registration Statement without affording the

Holders the opportunity to review and comment on the same as required by Section 3(a) herein or the Company subsequently withdraws the filing of the Registration Statement, the Company shall be deemed to have not satisfied this clause (i) as of the Filing Date), or (ii) the Company fails to file with the Commission a request for acceleration of a Registration Statement in accordance with Rule 461 promulgated by the Commission pursuant to the Securities Act, within five Trading Days of the date that the Company is notified (orally or in writing, whichever is earlier) by the Commission that such Registration Statement will not be “reviewed” or will not be subject to further review, or (iii) prior to the effective date of a Registration Statement, the Company fails to file a pre-effective amendment and otherwise respond in writing to comments made by the Commission in respect of such Registration Statement within ten (10) calendar days after the receipt of comments by or notice from the Commission that such amendment is required in order for such Registration Statement to be declared effective, or (iv) a Registration Statement registering for resale all of the Registrable Securities is not declared effective by the Commission by the Effectiveness Date of the Initial Registration Statement (provided that if the Registration Statement does not allow for the resale of Registrable Securities at prevailing market prices (i.e., only allows for fixed price sales), the Company shall have been deemed to have not satisfied this clause) or (v) after the effective date of a Registration Statement, such Registration Statement ceases for any reason to remain continuously effective as to all Registrable Securities included in such Registration Statement, or the Holders are otherwise not permitted to utilize the Prospectus therein to resell such Registrable Securities, for more than twenty (20) consecutive calendar days or more than an aggregate of thirty (30) calendar days (which need not be consecutive calendar days) during any 12-month period (any such failure or breach being referred to as an “Event”, and for purposes of clauses (i) and (iv), the date on which such Event occurs, and for purpose of clause (ii) the date on which such five (5) Trading Day period is exceeded, and for purpose of clause (iii) the date which such ten (10) calendar day period is exceeded, and for purpose of clause (v) the date on which such twenty (20) or thirty (30) calendar day period, as applicable, is exceeded being referred to as “Event Date”), then, in addition to any other rights the Holders may have hereunder or under applicable law, on each such Event Date and on each monthly anniversary of each such Event Date (if the applicable Event shall not have been cured by such date) until the applicable Event is cured, the Company shall pay to each Holder (or any assignee of Holder’s rights under this Agreement in accordance with Section 6(f) hereof) an amount in cash, as partial liquidated damages and not as a penalty, equal to 1.0% of the proportion of the aggregate Subscription Amount paid pursuant to the Purchase Agreement in respect of all Notes issued thereunder that the aggregate principal amount of Registrable Securities then held by such Holder or assignee, as applicable, bears to the aggregate original principal amount of all Notes issued pursuant to the Purchase Agreement. The parties agree that the maximum aggregate liquidated damages payable to a Holder under this Agreement shall be 5.0% of the aggregate Subscription Amount paid by such Holder pursuant to the Purchase Agreement. If the Company fails to pay any partial liquidated damages pursuant to this Section in full within seven days after the date payable, the Company will pay interest thereon at a rate of 18% per annum (or such lesser maximum amount that is permitted to be paid by applicable law) to the Holder, accruing daily from the date such partial liquidated damages are due until such amounts, plus all such interest thereon, are paid in full. The partial liquidated damages pursuant to the terms hereof shall apply on a daily pro rata basis for any portion of a month prior to the cure of an Event. For avoidance of doubt, if the Commission Staff reduces the number of Registrable Securities as contemplated in Section 2(c), no liquidated damages pursuant to Section 2(d) shall be imposed.

(e) If Form F-3 is not available for the registration of the resale of Registrable Securities hereunder, the Company shall (i) register the resale of the Registrable Securities on another appropriate form and (ii) undertake to register the Registrable Securities on Form F-3 as soon as such form is available; provided that the Company shall maintain the effectiveness of the Registration Statement then in effect until such time as a Registration Statement on Form F-3 covering the Registrable Securities has been declared effective by the Commission.

(f) Notwithstanding anything to the contrary contained herein, in no event shall the Company be permitted to name any Holder or affiliate of a Holder as any “underwriter” without the prior written consent of such Holder.

### 3. Registration Procedures.

In connection with the Company’s registration obligations hereunder, the Company shall:

(a) Not less than five (5) Trading Days prior to the filing of each Registration Statement and not less than one (1) Trading Day prior to the filing of any related Prospectus or any amendment or supplement thereto, the Company shall (i) furnish to each Holder copies of all such documents proposed to be filed, which documents will be subject to the review of such Holders, and (ii) cause its officers, counsel and independent registered public accountants to respond to such inquiries as shall be necessary, in the reasonable opinion of respective counsel to each Holder, to conduct a reasonable investigation within the meaning of the Securities Act; provided that the Company shall redact any sections of such documents that may contain material non-public information unless the Holder consents in writing to receive such information and agrees to hold it in confidence. The Company shall not file a Registration Statement or any such Prospectus or any amendments or supplements thereto to which the Holders of a majority of the Registrable Securities shall reasonably object in good faith; provided that the Company is notified of such objection in writing no later than two (2) Trading Days after the Holders have been so furnished copies of a Registration Statement or one (1) Trading Day after the Holders have been so furnished copies of any related Prospectus or amendments or supplements thereto. Any liquidated damages that are accruing at such time shall be tolled and any Event that may otherwise occur solely because of such delay shall be suspended. Each Holder (or any assignee of Holder’s rights under this Agreement in accordance with Section 6(f) hereof) agrees to furnish to the Company a completed questionnaire in the form attached to this Agreement as Annex B (a “Selling Securityholder Questionnaire”) on a date that is not less than two (2) Trading Days prior to the Filing Date or by the end of the second (2<sup>nd</sup>) Trading Day following the date on which such Holder receives draft materials in accordance with this Section. Any Holder that fails to return to the Company a completed Selling Securityholder Questionnaire by the applicable date set forth in this Section 3(a) shall not be entitled to be named as a selling securityholder in, or to use, the Registration Statement or the Prospectus (including any prospectus supplement) then intended to be filed or used for the resale of such Holder’s Registrable Securities; provided that if a Holder returns a completed Selling Securityholder Questionnaire after such date, the Company shall use its commercially reasonable efforts to take such actions as are required to name such Holder as a selling securityholder in, and to permit the resale of such Holder’s Registrable Securities pursuant to, the Registration Statement or a prospectus supplement or post-effective amendment thereto (or, if necessary, an additional Registration Statement); provided, further, that the Company shall not be obligated to file more than one such Prospectus supplement or post-effective amendment in any sixty (60) day period.

(b) (i) Prepare and file with the Commission such amendments, including post-effective amendments, to a Registration Statement and the Prospectus used in connection therewith as may be necessary to keep a Registration Statement continuously effective as to the applicable Registrable Securities for the Effectiveness Period and prepare and file with the Commission such additional Registration Statements in order to register for resale under the Securities Act all of the Registrable Securities, (ii) cause the related Prospectus to be amended or supplemented by any required Prospectus supplement (subject to the terms of this Agreement), and, as so supplemented or amended, to be filed pursuant to Rule 424, (iii) respond as promptly as reasonably possible to any comments received from the Commission with respect to a Registration Statement or any amendment thereto and provide as promptly as reasonably possible to the Holders true and complete copies of all correspondence from and to the Commission relating to a Registration Statement (provided that the Company shall excise any information contained therein which would constitute material non-public information regarding the Company or any of its Subsidiaries), and (iv) comply in all material respects with the applicable provisions of the Securities Act and the Exchange Act with respect to the disposition of all Registrable Securities covered by a Registration Statement during the applicable period in accordance (subject to the terms of this Agreement) with the intended methods of disposition by the Holders thereof set forth in such Registration Statement as so amended or in such Prospectus as so supplemented.

(c) If during the Effectiveness Period, the number of Registrable Securities at any time exceeds 100% of the number of Ordinary Shares then registered in a Registration Statement, then the Company shall file as soon as reasonably practicable, but in any case prior to the applicable Filing Date, an additional Registration Statement covering the resale by the Holders of not less than the number of such Registrable Securities.

(d) Notify the Holders of Registrable Securities to be sold (which notice shall, pursuant to clauses (iii) through (vi) of this Section 3(d), be accompanied by an instruction to suspend the use of the Prospectus until the requisite changes have been made) as promptly as reasonably possible (and, in the case of (i)(A) below, not less than one (1) Trading Day prior to such filing) and (if requested by any such Person) confirm such notice in writing no later than one (1) Trading Day following the day (i)(A) when a Prospectus or any Prospectus supplement or post-effective amendment to a Registration Statement is proposed to be filed, (B) when the Commission notifies the Company whether there will be a "review" of such Registration Statement and whenever the Commission comments in writing on such Registration Statement, and (C) with respect to a Registration Statement or any post-effective amendment, when the same has become effective, (ii) of any request by the Commission or any other federal or state governmental authority for amendments or supplements to a Registration Statement or Prospectus or for additional information, (iii) of the issuance by the Commission or any other federal or state governmental authority of any stop order suspending the effectiveness of a Registration Statement covering any or all of the Registrable Securities or the initiation of any Proceedings for that purpose, (iv) of the receipt by the Company of any notification with respect to the suspension of the qualification or exemption from qualification of any of the Registrable Securities for sale in any jurisdiction, or the initiation or threatening of any Proceeding for such purpose, (v) of the occurrence of any event or passage of time that makes the financial statements included in a Registration Statement ineligible for inclusion therein or any statement made in a Registration Statement or Prospectus or any document incorporated or deemed to be incorporated therein by reference untrue in any material respect or that requires any revisions to a Registration Statement, Prospectus or other documents so that, in the case of a Registration Statement or the Prospectus, as the case may be, it will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, and (vi) of the occurrence or existence of any pending corporate development with respect to the Company that the Company believes may be material and that, in the determination of the Company, makes it not in the best interest of the Company to allow continued availability of a Registration Statement or Prospectus; provided, however, that in no event shall any such notice contain any information which would constitute material, non-public information regarding the Company or any of its Subsidiaries, and the Company agrees that the Holders shall not have any duty of confidentiality to the Company or any of its Subsidiaries and shall not have any duty to the Company or any of its Subsidiaries not to trade on the basis of such information.

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(e) Use its reasonable best efforts to avoid the issuance of, or, if issued, obtain the withdrawal of (i) any order stopping or suspending the effectiveness of a Registration Statement, or (ii) any suspension of the qualification (or exemption from qualification) of any of the Registrable Securities for sale in any jurisdiction, at the earliest practicable moment.

(f) Furnish to each Holder, without charge, at least one conformed copy of each such Registration Statement and each amendment thereto, including financial statements and schedules, all documents incorporated or deemed to be incorporated therein by reference to the extent requested by such Person, and all exhibits to the extent requested by such Person (including those previously furnished or incorporated by reference) promptly after the filing of such documents with the Commission; provided that any such item which is available on the EDGAR system (or successor thereto) need not be furnished in physical form.

(g) Subject to the terms of this Agreement, the Company hereby consents to the use of such Prospectus and each amendment or supplement thereto by each of the selling Holders in connection with the offering and sale of the Registrable Securities covered by such Prospectus and any amendment or supplement thereto, except after the giving of any notice pursuant to Section 3(d).

(h) Prior to any resale of Registrable Securities by a Holder, use its commercially reasonable efforts to register or qualify or cooperate with the selling Holders in connection with the registration or qualification (or exemption from the registration or qualification) of such Registrable Securities for the resale by the Holder under the securities or Blue Sky laws of such jurisdictions within the United States as any Holder reasonably requests in writing, to keep each registration or qualification (or exemption therefrom) effective during the Effectiveness Period and to do any and all other acts or things reasonably necessary to enable the disposition in such jurisdictions of the Registrable Securities covered by each Registration Statement; provided that the Company shall not be required to qualify generally to do business in any jurisdiction where it is not then so qualified, subject the Company to any material tax in any such jurisdiction where it is not then so subject or file a general consent to service of process in any such jurisdiction.

(i) If requested by a Holder, cooperate with such Holder to facilitate the timely preparation and delivery of certificates or book entry statements representing Registrable Securities to be delivered to a transferee pursuant to a Registration Statement, which certificates or book entry statements, as applicable, shall be free, to the extent permitted by the Indenture, of all restrictive legends, and to enable such Registrable Securities to be in such denominations and registered in such names as any such Holder may request.

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(j) Upon the occurrence of any event contemplated by Section 3(d), as promptly as reasonably possible under the circumstances taking into account the Company's good faith assessment of any adverse consequences to the Company and its stockholders of the premature disclosure of such event, prepare a supplement or amendment, including a post-effective amendment, to a Registration Statement or a supplement to the related Prospectus or any document incorporated or deemed to be incorporated therein by reference, and file any other required document so that, as thereafter delivered, neither a Registration Statement nor such Prospectus will contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. If the Company notifies the Holders in accordance with clauses (iii) through (vi) of Section 3(d) above to suspend the use of any Prospectus until the requisite changes to such Prospectus have been made, then the Holders shall suspend use of such Prospectus. The Company will use its reasonable best efforts to ensure that the use of the Prospectus may be resumed as promptly as is practicable. The Company shall be entitled to exercise its right under this Section 3(j) to suspend the availability of a Registration Statement and Prospectus, subject to the payment of partial liquidated damages otherwise required pursuant to Section 2(d), for a period not to exceed 60 calendar days (which need not be consecutive days) in any 12-month period.

(k) Otherwise use commercially reasonable efforts to comply with all applicable rules and regulations of the Commission under the Securities Act and the Exchange Act, including, without limitation, Rule 172 under the Securities Act, file any final Prospectus, including any supplement or amendment thereof, with the Commission pursuant to Rule 424 under the Securities Act, promptly inform the Holders in writing if, at any time during the Effectiveness Period, the Company does not satisfy the conditions specified in Rule 172 and, as a result thereof, the Holders are required to deliver a Prospectus in connection with any disposition of Registrable Securities and take such other actions as may be reasonably necessary to facilitate the registration of the Registrable Securities hereunder.

(l) The Company shall use its reasonable best efforts to maintain eligibility for use of Form F-3 (or any successor form thereto or any other form on which the Registrable Securities are registered) for the registration of the resale of Registrable Securities.

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(m) The Company may require each selling Holder to furnish to the Company a completed Selling Securityholder Questionnaire. Any request by the Company that the Holders as of the date of such request (the “then-current Holders”) furnish a completed Selling Securityholder Questionnaire may be made by the Company filing with the Commission a Report of Foreign Private Issuer on Form 6-K announcing its intention to file a Registration Statement and requesting that the then-current Holders provide a completed Selling Securityholder Questionnaire, and upon any such filing the Company shall be deemed to have provided sufficient notice of, and request for, such information to all Holders for all purposes under this Agreement, including for purposes of the five (5) Trading Day advance delivery period set forth in Section 3(a); provided that such Report of Foreign Private Issuer on Form 6-K is filed not less than one (1) Trading Day prior to the commencement of such five (5) Trading Day period; and provided, further, that the Company shall deliver to each Holder that returns a completed Selling Securityholder Questionnaire the documents required to be furnished under Section 3(a) promptly following the Company’s receipt of such Holder’s completed Selling Securityholder Questionnaire. During any periods that the Company is unable to meet its obligations hereunder with respect to the registration of the Registrable Securities solely because any Holder fails to furnish such information within five Trading Days of the Company’s request, any liquidated damages that are accruing at such time as to such Holder only shall be tolled and any Event that may otherwise occur solely because of such delay shall be suspended as to such Holder only, until such information is delivered to the Company.

4. Registration Expenses. All fees and expenses incident to the performance of or compliance with, this Agreement by the Company shall be borne by the Company whether or not any Registrable Securities are sold pursuant to a Registration Statement. The fees and expenses referred to in the foregoing sentence shall include, without limitation, (i) all registration and filing fees (including, without limitation, fees and expenses of the Company’s independent registered public accountants) (A) with respect to filings made with the Commission, (B) with respect to filings required to be made with any Trading Market on which the Ordinary Shares are then listed for trading, and (C) in compliance with applicable state securities or Blue Sky laws reasonably agreed to by the Company in writing (including, without limitation, fees and disbursements of counsel for the Company in connection with Blue Sky qualifications or exemptions of the Registrable Securities), (ii) printing expenses (including, without limitation, expenses of printing certificates for Registrable Securities), (iii) messenger, telephone and delivery expenses, (iv) fees and expenses of counsel for the Company, (v) Securities Act liability insurance, if the Company so desires such insurance, and (vi) fees and expenses of all other Persons retained by the Company in connection with the consummation of the transactions contemplated by this Agreement. In addition, the Company shall be responsible for all of its internal expenses incurred in connection with the consummation of the transactions contemplated by this Agreement (including, without limitation, all salaries and expenses of its officers and employees performing legal or accounting duties), the expense of any annual audit and the fees and expenses incurred in connection with the listing of the Registrable Securities on any securities exchange as required hereunder. In no event shall the Company be responsible for any broker or similar commissions of any Holder or, except to the extent provided for in the Transaction Documents, any legal fees or other costs of the Holders.

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## 5. Indemnification.

(a) Indemnification by the Company. The Company shall, notwithstanding any termination of this Agreement, indemnify and hold harmless each Holder, the officers, directors, members, partners, agents, brokers (including brokers who offer and sell Registrable Securities as principal as a result of a pledge or any failure to perform under a margin call of Ordinary Shares), investment advisors and employees (and any other Persons with a functionally equivalent role of a Person holding such titles, notwithstanding a lack of such title or any other title) of each of them, each Person who controls any such Holder (within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act) and the officers, directors, members, stockholders, partners, agents and employees (and any other Persons with a functionally equivalent role of a Person holding such titles, notwithstanding a lack of such title or any other title) of each such controlling Person, to the fullest extent permitted by applicable law, from and against any and all losses, claims, damages, liabilities, costs (including, without limitation, reasonable attorneys’ fees) and expenses (collectively, “Losses”), as incurred, arising out of or relating to (1) any untrue or alleged untrue statement of a material fact contained in a Registration Statement, any Prospectus or any form of prospectus or in any amendment or supplement thereto or in any preliminary prospectus, or arising out of or relating to any omission or alleged omission of a material fact required to be stated therein or necessary to make the statements therein (in the case of any Prospectus or supplement thereto, in light of the circumstances under which they were made) not misleading or (2) any violation or alleged violation by the Company of the Securities Act, the Exchange Act or any state securities law, or any rule or regulation thereunder, in connection with the performance of its obligations under this Agreement, except to the extent, but only to the extent, that (i) such untrue statements or omissions are based solely upon information regarding such Holder furnished in writing to the Company by such Holder expressly for use therein, or to the extent that such information relates to such Holder or such Holder’s proposed method of distribution of Registrable Securities and was reviewed and expressly approved in writing by such Holder expressly for use in a Registration Statement, such Prospectus or in any amendment or supplement thereto (it being understood that the Holder has approved Annex A hereto for this purpose) or (ii) in the case of an occurrence of an event of the type specified in Section 3(d)(iii)-(vi), the use by such Holder of an outdated, defective or otherwise unavailable Prospectus after the Company has notified such Holder in writing that the Prospectus is outdated, defective or otherwise unavailable for use by such Holder and prior to the receipt by such Holder of the Advice contemplated in Section 6(c). The Company shall notify the Holders promptly of the institution, threat or assertion of any Proceeding arising from or in connection with the transactions contemplated by this Agreement of which the Company is aware. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of such indemnified person and shall survive the transfer of any Registrable Securities by any of the Holders in accordance with Section 6(f).

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(b) Indemnification by Holders. Each Holder shall, severally and not jointly, indemnify and hold harmless the Company, its directors, officers, agents and employees, each Person who controls the Company (within the meaning of Section 15 of the Securities Act and Section 20 of the Exchange Act), and the directors, officers, agents or employees of such controlling Persons, to the fullest extent permitted by applicable law, from and against all Losses, as incurred, to the extent arising out of or based solely upon: any untrue or alleged untrue statement of a material fact contained in any Registration Statement, any Prospectus, or in any amendment or supplement thereto or in any preliminary prospectus, or arising out of or relating to any omission or alleged omission of a material fact required to be stated therein or necessary to make the statements therein (in the case of any Prospectus or supplement thereto, in light of the circumstances under which they were made) not misleading (i) to the extent, but only to the extent, that such untrue statement or omission is contained in any information so furnished in writing by such Holder to the Company expressly for inclusion in such Registration Statement or such Prospectus or (ii) to the extent, but only to the extent, that such information relates to such Holder’s information provided in the Selling Securityholder Questionnaire or the proposed method of distribution of Registrable Securities and was reviewed and expressly approved in writing by such Holder expressly for use in a Registration Statement (it being understood that the Holder has approved Annex A hereto for this purpose), such Prospectus or in any amendment or supplement thereto. In no event shall the liability of a selling Holder be greater in amount than the dollar amount of the proceeds (net of all expenses paid by such Holder in connection with any claim relating to this Section 5 and the amount of any damages such Holder has otherwise been required to pay by reason of such untrue statement or omission) received by such Holder upon the sale of the Registrable Securities included in the Registration Statement giving rise to such indemnification obligation.

(c) Conduct of Indemnification Proceedings. If any Proceeding shall be brought or asserted against any Person entitled to indemnity hereunder (an “Indemnified Party”), such Indemnified Party shall promptly notify the Person from whom indemnity is sought (the “Indemnifying Party”) in writing, and the Indemnifying Party shall have the right to assume the defense thereof, including the employment of counsel reasonably satisfactory to the Indemnified Party and the payment of all reasonable

fees and reasonable expenses incurred in connection with defense thereof; provided that the failure of any Indemnified Party to give such notice shall not relieve the Indemnifying Party of its obligations or liabilities pursuant to this Agreement, except (and only) to the extent that it shall be finally determined by a court of competent jurisdiction (which determination is not subject to appeal or further review) that such failure shall have materially and adversely prejudiced the Indemnifying Party.

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An Indemnified Party shall have the right to employ separate counsel in any such Proceeding and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party or Parties unless: (1) the Indemnifying Party has agreed in writing to pay such fees and expenses, (2) the Indemnifying Party shall have failed promptly to assume the defense of such Proceeding and to employ counsel reasonably satisfactory to such Indemnified Party in any such Proceeding, or (3) the named parties to any such Proceeding (including any impleaded parties) include both such Indemnified Party and the Indemnifying Party, and counsel to the Indemnified Party shall reasonably believe that a material conflict of interest is likely to exist if the same counsel were to represent such Indemnified Party and the Indemnifying Party (in which case, if such Indemnified Party notifies the Indemnifying Party in writing that it elects to employ separate counsel at the expense of the Indemnifying Party, the Indemnifying Party shall not have the right to assume the defense thereof and the reasonable fees and expenses of no more than one separate counsel shall be at the expense of the Indemnifying Party). The Indemnifying Party shall not be liable for any settlement of any such Proceeding effected without its written consent, which consent shall not be unreasonably withheld or delayed. No Indemnifying Party shall, without the prior written consent of the Indemnified Party, effect any settlement of any pending Proceeding in respect of which any Indemnified Party is a party, unless such settlement includes an unconditional release of such Indemnified Party from all liability on claims that are the subject matter of such Proceeding.

Subject to the terms of this Agreement, all reasonable fees and expenses of the Indemnified Party (including reasonable fees and expenses to the extent incurred in connection with investigating or preparing to defend such Proceeding in a manner not inconsistent with this Section) shall be paid to the Indemnified Party, as incurred, within ten Trading Days of written notice thereof to the Indemnifying Party; provided that the Indemnified Party shall promptly reimburse the Indemnifying Party for that portion of such fees and expenses applicable to such actions for which such Indemnified Party is finally determined by a court of competent jurisdiction (which determination is not subject to appeal or further review) not to be entitled to indemnification hereunder.

(d) Contribution. If the indemnification under Section 5(a) or 5(b) is unavailable to an Indemnified Party or insufficient to hold an Indemnified Party harmless for any Losses, then each Indemnifying Party shall contribute to the amount paid or payable by such Indemnified Party, in such proportion as is appropriate to reflect the relative fault of the Indemnifying Party and Indemnified Party in connection with the actions, statements or omissions that resulted in such Losses as well as any other relevant equitable considerations. The relative fault of such Indemnifying Party and Indemnified Party shall be determined by reference to, among other things, whether any action in question, including any untrue or alleged untrue statement of a material fact or omission or alleged omission of a material fact, has been taken or made by, or relates to information supplied by, such Indemnifying Party or Indemnified Party, and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such action, statement or omission. The amount paid or payable by a party as a result of any Losses shall be deemed to include, subject to the limitations set forth in this Agreement, any reasonable attorneys' or other fees or expenses incurred by such party in connection with any Proceeding to the extent such party would have been indemnified for such fees or expenses if the indemnification provided for in this Section was available to such party in accordance with its terms.

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The parties hereto agree that it would not be just and equitable if contribution pursuant to this Section 5(d) were determined by pro rata allocation or by any other method of allocation that does not take into account the equitable considerations referred to in the immediately preceding paragraph. In no event shall the contribution obligation of a Holder of Registrable Securities be greater in amount than the dollar amount of the proceeds (net of all expenses paid by such Holder in connection with any claim relating to this Section 5 and the amount of any damages such Holder has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission) received by it upon the sale of the Registrable Securities giving rise to such contribution obligation.

The indemnity and contribution agreements contained in this Section are in addition to any liability that the Indemnifying Parties may have to the Indemnified Parties.

6. Miscellaneous.

(a) Remedies. In the event of a breach by the Company or by a Holder of any of their respective obligations under this Agreement, each Holder or the Company, as the case may be, in addition to being entitled to exercise all rights granted by law and under this Agreement, including recovery of damages, shall be entitled to specific performance of its rights under this Agreement. Each of the Company and each Holder agrees that monetary damages would not provide adequate compensation for any losses incurred by reason of a breach by it of any of the provisions of this Agreement and hereby further agrees that, in the event of any action for specific performance in respect of such breach, it shall not assert or shall waive the defense that a remedy at law would be adequate.

(b) No Piggyback on Registrations; Prohibition on Filing Other Registration Statements. Neither the Company nor any of its security holders (other than the Holders in such capacity pursuant hereto) may include securities of the Company in any Prospectus (including and prospectus supplement) used to effect the resale of the Registrable Securities other than the Registrable Securities.

(c) Discontinued Disposition. By its acquisition of Registrable Securities, each Holder agrees that, upon receipt of a notice from the Company of the occurrence of any event of the kind described in Section 3(d)(iii) through (vi), such Holder will forthwith discontinue disposition of such Registrable Securities under a Registration Statement until it is advised in writing (the "Advice") by the Company that the use of the applicable Prospectus (as it may have been supplemented or amended) may be resumed. The Company will use its reasonable best efforts to ensure that the use of the Prospectus may be resumed as promptly as is practicable. The Company agrees and acknowledges that any periods during which the Holder is required to discontinue the disposition of the Registrable Securities hereunder shall be subject to the provisions of Section 2(d). The Company shall cause its transfer agent to deliver unlegended Ordinary Shares to a transferee of a Holder in accordance with any sale of Registrable Securities pursuant to a Registration Statement with respect to which such Holder has entered into a contract for sale prior to such Holder's receipt of the Advice from the Company and for which such Holder has not yet settled.

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(d) Amendments and Waivers. The provisions of this Agreement, including the provisions of this sentence, may not be amended, modified or supplemented, and waivers or consents to departures from the provisions hereof may not be given, unless the same shall be in writing and signed by the Company and the Holders of 50.1% or more of the then outstanding Registrable Securities (for purposes of clarification, this includes any Registrable Securities issuable upon exercise or conversion of any Security); provided that if any amendment, modification or waiver disproportionately and adversely

impacts a Holder (or group of Holders), the consent of such disproportionately impacted Holder (or group of Holders) shall be required. If a Registration Statement does not register all of the Registrable Securities pursuant to a waiver or amendment done in compliance with the previous sentence, then the number of Registrable Securities to be registered for each Holder shall be reduced pro rata among all Holders and each Holder shall have the right to designate which of its Registrable Securities shall be omitted from such Registration Statement. Notwithstanding the foregoing, a waiver or consent to depart from the provisions hereof with respect to a matter that relates exclusively to the rights of a Holder or some Holders and that does not directly or indirectly affect the rights of other Holders may be given only by such Holder or Holders of all of the Registrable Securities to which such waiver or consent relates; provided that the provisions of this sentence may not be amended, modified, or supplemented except in accordance with the provisions of the first sentence of this Section 6(d). No consideration shall be offered or paid to any Holder to amend or consent to a waiver or modification of any provision of this Agreement unless the same consideration also is offered to all other Holders.

(e) Notices. Any and all notices or other communications or deliveries required or permitted to be provided hereunder shall be delivered as set forth in the Purchase Agreement.

(f) Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the successors and permitted assigns of each of the parties and shall inure to the benefit of each Holder and by accepting the benefits hereof shall bind such successors and permitted assigns. The Company may not assign (except by merger) its rights or obligations hereunder without the prior written consent of all of the Holders of the then outstanding Registrable Securities. Each Holder may assign their respective rights hereunder in the manner and to the Persons as permitted under Section 5.7 of the Purchase Agreement.

(g) No Inconsistent Agreements. Neither the Company nor any of its Subsidiaries has entered, as of the date hereof, nor shall the Company or any of its Subsidiaries, on or after the date of this Agreement, enter into any agreement with respect to its securities, that would have the effect of impairing the rights granted to the Holders in this Agreement or otherwise conflicts with the provisions hereof. Neither the Company nor any of its Subsidiaries has previously entered into any agreement granting any registration rights with respect to any of its securities to any Person that have not been satisfied in full.

(h) Execution and Counterparts. This Agreement may be executed in two or more counterparts, all of which when taken together shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to the other party, it being understood that both parties need not sign the same counterpart. In the event that any signature is delivered by e-mail delivery of a “.pdf” format data file or any electronic signature complying with the U.S. federal ESIGN Act of 2000 (e.g., www.docusign.com), such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such “.pdf” signature page were an original thereof.

(i) Governing Law. All questions concerning the construction, validity, enforcement and interpretation of this Agreement shall be determined in accordance with the provisions of the Purchase Agreement.

(j) Cumulative Remedies. The remedies provided herein are cumulative and not exclusive of any other remedies provided by law.

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(k) Severability. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction to be invalid, illegal, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions set forth herein shall remain in full force and effect and shall in no way be affected, impaired or invalidated, and the parties hereto shall use their commercially reasonable efforts to find and employ an alternative means to achieve the same or substantially the same result as that contemplated by such term, provision, covenant or restriction. It is hereby stipulated and declared to be the intention of the parties that they would have executed the remaining terms, provisions, covenants and restrictions without including any of such that may be hereafter declared invalid, illegal, void or unenforceable.

(l) Headings. The headings in this Agreement are for convenience only, do not constitute a part of the Agreement and shall not be deemed to limit or affect any of the provisions hereof.

(m) Independent Nature of Holders' Obligations and Rights. The obligations of each Holder hereunder are several and not joint with the obligations of any other Holder hereunder, and no Holder shall be responsible in any way for the performance of the obligations of any other Holder hereunder. Nothing contained herein or in any other agreement or document delivered at any closing, and no action taken by any Holder pursuant hereto or thereto, shall be deemed to constitute the Holders as a partnership, an association, a joint venture or any other kind of group or entity, or create a presumption that the Holders are in any way acting in concert or as a group or entity with respect to such obligations or the transactions contemplated by this Agreement or any other matters, and the Company acknowledges that the Holders are not acting in concert or as a group, and the Company shall not assert any such claim, with respect to such obligations or transactions. Each Holder shall be entitled to protect and enforce its rights, including without limitation the rights arising out of this Agreement, and it shall not be necessary for any other Holder to be joined as an additional party in any proceeding for such purpose. The use of a single agreement with respect to the obligations of the Company contained was solely in the control of the Company, not the action or decision of any Holder, and was done solely for the convenience of the Company and not because it was required or requested to do so by any Holder. It is expressly understood and agreed that each provision contained in this Agreement is between the Company and a Holder, solely, and not between the Company and the Holders collectively and not between or among Holders.

(n) Notwithstanding anything herein to the contrary, each Holder may deliver written notice (an “Opt-Out Notice”) to the Company requesting that such Holder not receive notices from the Company otherwise required by this Agreement; provided, however, that such Holder may later revoke any such Opt-Out Notice in writing. Following receipt of an Opt-Out Notice from a Holder (unless subsequently revoked), (a) the Company shall not deliver any notices pursuant to this Agreement to such Holder and such Holder shall no longer be entitled to the rights associated with any such notice and (b) each time prior to such Holder's intended use of an effective Registration Statement, such Holder will notify the Company in writing at least two (2) Business Days in advance of such intended use, and if an Advice was previously delivered (or would have been delivered but for the provisions of this Section 6(n)) and the related suspension period remains in effect, the Company will so notify such Holder, within one (1) Business Day of such Holder's notification to the Company, by delivering to such Holder a copy of such previous Advice, and thereafter will provide such Holder with the related notice of the conclusion of such Advice immediately upon the conclusion thereof (which notices shall not contain any material nonpublic information or subject such Holder to any duty of confidentiality). For the avoidance of doubt, the delivery of an Opt-Out Notice shall not affect the Company's ability to satisfy any notice or request requirement under this Agreement by filing a Report of Foreign Private Issuer on Form 6-K as contemplated by Section 3(m), and any such filing shall be deemed to provide sufficient notice to, and request of, such Holder notwithstanding such Opt-Out Notice.

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(n) (Signature Pages Follow)

IN WITNESS WHEREOF, the parties have executed this Registration Rights Agreement as of the date first written above.

**GORILLA TECHNOLOGY GROUP INC.**

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

[SIGNATURE PAGE OF HOLDERS FOLLOWS]

[Signature Page to Registration Rights Agreement]

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[SIGNATURE PAGE OF HOLDERS TO GRRR RRA]

**[INVESTOR]**

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

[Signature Page to Registration Rights Agreement]

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**Annex A**

#### Plan of Distribution

Each Selling Securityholder (the “Selling Securityholders”) of the securities and any of their pledgees, donees, transferees, assignees and successors-in-interest may, from time to time, sell any or all of their securities covered hereby on the principal Trading Market or any other stock exchange, market or trading facility on which the securities are traded or in private transactions. These sales may be at fixed or negotiated prices. A Selling Securityholder may dispose of their securities by one or more of, or a combination of, the following methods:

- distributions to members, partners, stockholders or other equityholders of the Selling Securityholders;
- ordinary brokerage transactions and transactions in which the broker-dealer solicits purchasers;
- block trades in which the broker-dealer will attempt to sell the securities as agent but may position and resell a portion of the block as principal to facilitate the transaction;
- purchases by a broker-dealer as principal and resale by the broker-dealer for its account;
- an exchange distribution in accordance with the rules of the applicable exchange;
- privately negotiated transactions;
- settlement of short sales;
- in transactions through broker-dealers that agree with the Selling Securityholders to sell a specified number of such securities at a stipulated price per security;
- through the writing or settlement of options or other hedging transactions, whether through an options exchange or otherwise;
- a combination of any such methods of sale; or
- any other method permitted pursuant to applicable law.

The Selling Securityholders may also sell securities under Rule 144 or any other exemption from registration under the Securities Act of 1933, as amended (the “Securities Act”), if available, rather than under this prospectus.

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Broker-dealers engaged by the Selling Securityholders may arrange for other brokers-dealers to participate in sales. Broker-dealers may receive commissions or discounts from the Selling Securityholders (or, if any broker-dealer acts as agent for the purchaser of securities, from the purchaser) in amounts to be negotiated, but, except as set forth in a supplement to this Prospectus, in the case of an agency transaction not in excess of a customary brokerage commission in compliance with FINRA Rule 2121; and in the case of a principal transaction a markup or markdown in compliance with FINRA Rule 2121.

In connection with the sale of the securities or interests therein, the Selling Securityholders may enter into hedging transactions with broker-dealers or other financial institutions, which may in turn engage in short sales of the securities in the course of hedging the positions they assume. The Selling Securityholders may also sell securities short and deliver these securities to close out their short positions, or loan or pledge the securities to broker-dealers that in turn may sell these securities. The Selling Securityholders may also enter into option or other transactions with broker-dealers or other financial institutions or create one or more derivative securities which require the delivery to such broker-dealer or other financial institution of securities offered by this prospectus, which securities such broker-dealer or other financial institution may resell pursuant to this prospectus (as supplemented or amended to reflect such transaction).

The Selling Securityholders and any broker-dealers or agents that are involved in selling the securities may be deemed to be “underwriters” within the meaning of the Securities Act in connection with such sales. In such event, any commissions received by such broker-dealers or agents and any profit on the resale of the securities purchased by them may be deemed to be underwriting commissions or discounts under the Securities Act. Each Selling Securityholder has informed the Company that it does not have any written or oral agreement or understanding, directly or indirectly, with any person to distribute the securities.

The Company is required to pay certain fees and expenses incurred by the Company incident to the registration of the securities. The Company has agreed to indemnify the Selling Securityholders against certain losses, claims, damages and liabilities, including liabilities under the Securities Act.

We agreed to keep this prospectus effective until the earlier of (i) the date on which the securities may be resold by the Selling Securityholders without registration and without regard to any volume or manner-of-sale limitations by reason of Rule 144, without the requirement for the Company to be in compliance with the current public information under Rule 144 under the Securities Act or any other rule of similar effect or (ii) all of the securities have been sold pursuant to this prospectus or Rule 144 under the Securities Act or any other rule of similar effect. The resale securities will be sold only through registered or licensed brokers or dealers if required under applicable state securities laws. In addition, in certain states, the resale securities covered hereby may not be sold unless they have been registered or qualified for sale in the applicable state or an exemption from the registration or qualification requirement is available and is complied with.

Under applicable rules and regulations under the Securities Exchange Act of 1934, as amended, any person engaged in the distribution of the resale securities may not simultaneously engage in market making activities with respect to the ordinary shares for the applicable restricted period, as defined in Regulation M, prior to the commencement of the distribution. In addition, the Selling Securityholders will be subject to applicable provisions of the Exchange Act and the rules and regulations thereunder, including Regulation M, which may limit the timing of purchases and sales of the ordinary shares by the Selling Securityholders or any other person. We will make copies of this prospectus available to the Selling Securityholders and have informed them of the need to deliver a copy of this prospectus to each purchaser at or prior to the time of the sale (including by compliance with Rule 172 under the Securities Act).

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Annex B

## GORILLA TECHNOLOGY GROUP INC.

### Selling Securityholder Notice and Questionnaire

The undersigned beneficial owner of 7.50% Senior Unsecured Convertible Notes, Series B due 2031 (the “Registrable Securities”) of Gorilla Technology Group Inc., an exempt company incorporated under the laws of the Cayman Islands (the “Company”), understands that the Company has filed or intends to file with the Securities and Exchange Commission (the “Commission”) a registration statement (the “Registration Statement”) for the registration and resale under Rule 415 of the Securities Act of 1933, as amended (the “Securities Act”), of the Registrable Securities, in accordance with the terms of the Registration Rights Agreement (the “Registration Rights Agreement”) to which this document is annexed. A copy of the Registration Rights Agreement is available from the Company upon request at the address set forth below. All capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Registration Rights Agreement.

Certain legal consequences arise from being named as a selling securityholder in the Registration Statement and the related prospectus. Accordingly, holders and beneficial owners of Registrable Securities are advised to consult their own securities law counsel regarding the consequences of being named or not being named as a selling securityholder in the Registration Statement and the related prospectus.

### NOTICE

The undersigned beneficial owner (the “Selling Securityholder”) of Registrable Securities hereby elects to include the Registrable Securities owned by it in the Registration Statement.

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The undersigned hereby provides the following information to the Company and represents and warrants that such information is accurate:

### QUESTIONNAIRE

1. **Name.**

(a) Full Legal Name of Selling Securityholder

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(b) Full Legal Name of Registered Holder (if not the same as (a) above) through which Registrable Securities are held:

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(c) Full Legal Name of Natural Control Person (which means a natural person who directly or indirectly alone or with others has power to vote or dispose of the securities covered by this Questionnaire):

2. Address for Notices to Selling Securityholder:

Telephone:

E-Mail:

Contact Person:

3. Broker-Dealer Status:

- (a)

Are you a broker-dealer?

Yes ☐ No ☐
- (b)

If “yes” to Section 3(a), did you receive your Registrable Securities as compensation for investment banking services to the Company?

Yes ☐ No ☐
- Note:

If “no” to Section 3(b), the Commission’s staff has indicated that you should be identified as an underwriter in the Registration Statement.

- (c)

Are you an affiliate of a broker-dealer?

Yes ☐ No ☐
- (d)

If you are an affiliate of a broker-dealer, do you certify that you purchased the Registrable Securities in the ordinary course of business, and at the time of the purchase of the Registrable Securities to be resold, you had no agreements or understandings, directly or indirectly, with any person to distribute the Registrable Securities?

Yes ☐ No ☐
- Note:

If “no” to Section 3(d), the Commission’s staff has indicated that you should be identified as an underwriter in the Registration Statement.

4. Beneficial Ownership of Securities of the Company Owned by the Selling Securityholder.

*Except as set forth below in this Item 4, the undersigned is not the beneficial or registered owner of any securities of the Company other than the securities issuable pursuant to the Purchase Agreement.*

- (a)

Type and Amount of other securities beneficially owned by the Selling Securityholder:

5. Relationships with the Company:

*Except as set forth below, neither the undersigned nor any of its affiliates, officers, directors or principal equity holders (owners of 5% of more of the equity securities of the undersigned) has held any position or office or has had any other material relationship with the Company (or its predecessors or affiliates) during the past three years.*

State any exceptions here:

The undersigned agrees to promptly notify the Company of any material inaccuracies or changes in the information provided herein that may occur subsequent to the date hereof at any time while the Registration Statement remains effective; provided that the undersigned shall not be required to notify the Company of any changes to the number of securities held or owned by the undersigned or its affiliates.

By signing below, the undersigned consents to the disclosure of the information contained herein in its answers to Items 1 through 5 and the inclusion of such information in the Registration Statement and the related prospectus and any amendments or supplements thereto. The undersigned understands that such information will be relied upon by the Company in connection with the preparation or amendment of the Registration Statement and the related prospectus and any amendments or supplements thereto.

IN WITNESS WHEREOF the undersigned, by authority duly given, has caused this Notice and Questionnaire to be executed and delivered either in person or by its duly

authorized agent.

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

Beneficial Owner:

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

**PLEASE EMAIL A .PDF COPY OF THE COMPLETED AND EXECUTED NOTICE AND QUESTIONNAIRE TO:**

Bruce Bower, Chief Financial Officer, at [bruce.bower@gorilla-technology.com](mailto:bruce.bower@gorilla-technology.com)

with a copy to:

\*\*\*\*\*

and

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Exhibit C

Qualified Institutional Buyer Certificate

*(see attached)*

Schedule 3.1(a)

Gorilla Science & Technology Holding, Inc.  
Telmedia Technology Limited  
ISSCore Technology, Inc.  
Gorilla Technology Inc.  
NSGUARD Technology Inc.  
Gorilla Technology (India) Private Limited  
Global SPAC Partners Co.  
Gorilla Technology UK Limited  
Gorilla Technology Egypt LLC  
Gorilla Distribution Partners Limited  
Gorilla Distribution Egypt  
Gorilla Technology (Thailand) Co., Ltd.  
Gorilla Technology Pte. Ltd.  
Gorilla Project Dollar 1 Pte. Ltd.  
Gorilla Tech Capital Limited

Schedule 3.1(II)

Prior to the consummation of a business combination contemplated by that certain Amended and Restated Business Combination Agreement, dated as of May 18, 2022 (the “Business Combination Agreement”), by and among Global SPAC Partners Co., Gorilla Merger Sub, Inc., Global SPAC Sponsors LLC, Tomoyuki Nii and the Company, on July 13, 2022 (the “Closing Date”), the Company granted options to purchase ordinary shares of the Company (“Ordinary Shares”) under the Employee Stock Option Program (the “ESOP”). Since July 13, 2022, no new option awards have been granted under the ESOP. On the Closing Date, pursuant to the Business Combination Agreement, each share underlying an option granted under the ESOP that was outstanding and vested as of the Closing Date was converted into approximately 4.82 Ordinary Shares and the per share exercise price of each such vested option was adjusted proportionately (the “Conversion”). Effective as of the Closing Date, the Board cancelled and terminated all options granted under the ESOP to the extent outstanding and unvested as of the Closing Date. Except with respect to the Conversion, each option that was outstanding and vested as of the Closing Date continued to be governed by the terms and conditions of the ESOP and the governing option agreement. Options granted under the ESOP to employees and other service providers who where not resident in the US at the time the option was granted may have been granted with an exercise price that was less than the fair market value of the Ordinary Shares on the date such stock option was granted. As of June 1, 2026, fewer than 45,000 Ordinary Shares were subject to outstanding options that were granted under the ESOP.

## GORILLA TECHNOLOGY GROUP INC.

(COMPANY)

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION

(TRUSTEE)

7.50% SENIOR UNSECURED CONVERTIBLE NOTES, SERIES B DUE 2031

INDENTURE

DATED AS OF JULY 17, 2026

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INDENTURE, dated as of July 17, 2026, between Gorilla Technology Group Inc., an exempt company incorporated under the laws of the Cayman Islands, as issuer (the “**Company**”), and U.S. Bank Trust Company, National Association, initially as trustee, conversion agent, registrar and paying agent (in such capacities, and subject to the provisions herein for replacements or successors for such parties, the “**Trustee**”, “**Conversion Agent**”, “**Registrar**” and “**Paying Agent**”, respectively).

## RECITALS OF THE COMPANY

WHEREAS, the Company has duly authorized the creation of an issue of the Company’s 7.50% Senior Unsecured Convertible Notes, Series B due 2031 (the “**Notes**”), having the terms, tenor, amount and other provisions hereinafter set forth, and, to provide therefor, has duly authorized the execution and delivery of this Indenture (this “**Indenture**”); and

WHEREAS, the Form of Note, the certificate of authentication to be borne by each Note, the Form of Notice of Conversion and the Form of Assignment and Transfer to be borne by the Notes are to be substantially in the forms hereinafter provided; and

WHEREAS, in connection with their several purchases of interests in the Notes, the initial beneficial owners of such interests in the Notes and the Company have entered into that certain Securities Purchase Agreement, dated as of July 15, 2026 (the “**Purchase Agreement**”);

WHEREAS, such initial beneficial owners will enter into that certain Registration Rights Agreement, dated as of July 17, 2026, (the “**Registration Rights Agreement**”) providing for, among other things, certain registration rights in respect of the Common Stock (as defined below) (if any) issuable upon conversion hereunder by any such initial beneficial owner or, in certain circumstances, to the assignees of such initial beneficial owners; and

WHEREAS, all things necessary to make the Notes, when duly executed by the Company and authenticated and delivered hereunder and duly issued by the Company, the legal, valid and binding obligations of the Company, in accordance with the terms of the Notes and this Indenture, have been done and performed, and the execution of this Indenture and the issue hereunder of the Notes have in all respects been duly authorized;

NOW, THEREFORE, THIS INDENTURE WITNESSETH, for and in consideration of the premises and the purchases of the Notes by the Holders thereof, it is mutually agreed, for the benefit of each other and the equal and proportionate benefit of all Holders (as hereinafter defined), as follows:

## ARTICLE I DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

### Section 1.01 *Definitions and References.*

The terms defined in this Section 1.01 (except as herein otherwise expressly provided or unless the context otherwise requires) for all purposes of this Indenture and of any indenture supplemental hereto shall have the respective meanings specified in this Section 1.01. The words “herein”, “hereof”, “hereunder” and words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other Subdivision. The word “or” is not exclusive and the word “including” means including without limitation. The terms defined in this Article include the plural as well as the singular. References to any Article, Section, Schedule or Exhibit are to this Indenture except as herein otherwise expressly provided.

“**Act**” has the meaning specified in Section 1.03.

“**Additional Interest**” means all amounts, if any, payable by the Company pursuant to Section 5.03.

“**Additional Restricted Ownership Person**” has the meaning specified in Section 3.01(c).

“**Additional Shares**” has the meaning specified in Section 3.06(a).

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

“**Agent Members**” has the meaning specified in Section 2.06(b).

“**Agent**” means any Paying Agent, Registrar, Conversion Agent, or any other agent appointed pursuant to this Indenture.

“**Anti-Dilution Adjustment**” means any equitable adjustment to the Conversion Rate pursuant to Sections 3.04(a) through (f).

“**Applicable Procedures**” means, with respect to any matter at any time, the policies and procedures of a Depositary, if any, that are applicable to such matter at such time.

“**As-Adjusted Coupon Make-Whole Conversion Rate**” means the Conversion Rate applicable to a conversion during a Make-Whole Fundamental Change Conversion Period, as potentially increased pursuant to Section 3.07.

“**As-Adjusted Table Make-Whole Conversion Rate**” means the Conversion Rate applicable to a conversion during a Make-Whole Fundamental Change Conversion Period, as potentially increased by the Additional Shares determined pursuant to the table set forth in Section 3.06(a).

“**Authenticating Agent**” means any Person authorized by the Trustee to act on behalf of the Trustee to authenticate Notes.

“Average Price” has the meaning specified in Section 3.04(g).

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“**Bankruptcy Law**” means Title 11, United States Bankruptcy Code of 1978, as amended, or any similar United States federal or state law or foreign law relating to bankruptcy, insolvency, receivership, winding up, liquidation, reorganization or relief of debtors or any amendment to, succession to or change in any such law.

“**Board of Directors**” means either the board of directors of the Company or any duly authorized committee of that board.

“**Board Resolution**” when used with reference to the Company means a copy of a resolution certified by the Secretary or an Assistant Secretary of the Company to have been duly adopted by the Board of Directors and to be in full force and effect on the date of such certification, and delivered to the Trustee.

“**Business Combination Event**” has the meaning specified in Section 8.01.

“**Business Day**” means any day other than (x) a Saturday, (y) a Sunday or (z) a day on which state or federally chartered banking institutions in New York, New York or the place of payment are generally authorized or required by law, regulation or executive order to close.

“**Capitalized Leases**” shall mean, as applied to any Person, all leases of property that have been or should be, in accordance with IFRS, recorded as capitalized leases on the balance sheet of such Person or any of its Subsidiaries, on a consolidated basis; *provided*, that for all purposes hereunder the amount of obligations under any Capitalized Lease shall be the amount thereof accounted for as a liability on the balance sheet (excluding the footnotes thereto) of such Person in accordance with IFRS.

“**Cash Equivalents**” means, as of any date of determination, (a) marketable securities issued or directly and unconditionally guaranteed as to interest and principal by the United States government or any agency or instrumentality thereof having maturities of not more than one year from such date and, in each case, not subject to any trading restriction, (b) marketable securities issued by any state of the United States or any political subdivision of any such state or any public instrumentality thereof maturing within one year from such date and, at the time of acquisition thereof, having a credit rating of at least A-1 from S&P or at least P-1 from Moody’s (or, if at any time neither S&P nor Moody’s shall be rating such securities, then an equivalent rating from another nationally recognized statistical rating organization), (c) commercial paper or corporate debt obligations maturing within one year from the date of acquisition thereof, issued by a corporation (other than an Affiliate of the Company) organized and in existence under the laws of the United States or any state thereof and, at the time of acquisition thereof, having a credit rating of at least A-1 from S&P or at least P-1 from Moody’s (or, if at any time neither S&P nor Moody’s shall be rating such securities, then an equivalent rating from another nationally recognized statistical rating organization), (d) certificates of deposit or bankers’ acceptances maturing within one year from such date and issued or accepted by any bank organized under the laws of the United States or any state thereof or the District of Columbia or any U.S. branch of a foreign bank having at the date of acquisition thereof combined capital and surplus of not less than \$500,000,000, (e) deposit accounts maintained with any bank that satisfies the criteria set forth in clause (d) above, (f) repurchase agreements having a term of not more than 30 days and fully secured by securities described in clause (a) above with banks described in clause (d) above, and (g) money market funds substantially all of whose assets are invested in the types of assets described in clauses (a) through (f) above.

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

“**Change of Control**” means an event that will be deemed to have occurred at the time, after the first date of original issuance for the Notes, any of the following occurs:

- (i) any “person” or “group” (within the meaning of Section 13(d) of the Exchange Act) is or becomes the direct or indirect “beneficial owner,” as defined in Rule 13d-3 under the Exchange Act, of the Company’s Common Equity representing 50% or more of the total voting power of the Company’s Common Equity, or has the power, directly or indirectly, to elect a majority of the members of the Board of Directors;
- (ii) the consummation of (x) any sale, lease or other transfer, in one transaction or a series of transactions, of all or substantially all of the assets of the Company and its Subsidiaries, taken as a whole, to any Person, other than solely to one or more of the Company’s Wholly Owned Subsidiaries; or (y) any transaction or series of related transactions in connection with which (whether by means of merger, consolidation, share exchange, combination, reclassification, recapitalization, acquisition, liquidation or otherwise) all of the Common Stock is exchanged for, converted into, acquired for, or constitutes solely the right to receive, other securities, cash or other property; *provided, however*, that any merger, consolidation, share exchange or combination of the Company pursuant to which the Persons that directly or indirectly “beneficially owned” (as defined in Rule 13d-3 under the Exchange Act) all classes of the Company’s Common Equity immediately before such transaction directly or indirectly “beneficially own,” immediately after such transaction, more than 50% of all classes of Common Equity of the surviving, continuing or acquiring company or other transferee, as applicable, or the parent thereof, in substantially the same proportions vis-à-vis each other as immediately before such transaction will be deemed not to be a Change of Control pursuant to this clause (ii); *provided, further*, that any reclassification of the Common Stock to be the single class of the Company’s Common Equity (in a dual class collapse), so long as such surviving Common Stock is the only class of the Company’s Common Equity with any issued and outstanding shares of Common Stock after such reclassification, will be deemed not to be a Change of Control pursuant to this clause (ii); or
- (iii) the holders of the Company’s Capital Stock approve any plan or proposal for the liquidation or dissolution of the Company (whether or not otherwise in compliance with this Indenture).

If any transaction in which the Common Stock is replaced by the Reference Property comprised of securities of another entity occurs, following completion of any related Fundamental Change Repurchase Date, references to the Company in this definition of “Change of Control” will apply to such other entity instead.

“**Clause A Distribution**” has the meaning specified in Section 3.04(c).

“**Clause B Distribution**” has the meaning specified in Section 3.04(c).

“**Clause C Distribution**” has the meaning specified in Section 3.04(c).

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

“**Closing Sale Price**” of the Common Stock for any day, as determined by the Company, means the closing sale price per share (or, if no closing sale price is reported, the average of the last bid and last ask prices or, if more than one in either case, the average of the average last bid and the average last ask prices) at 4:00 p.m. New York City time on that day as reported in composite transactions for the Exchange, or if the Common Stock is not listed on the Exchange, the principal U.S. national or regional securities exchange on which the Common Stock is listed for trading or, if the Common Stock is not listed on a U.S. national or regional securities exchange, as reported by OTC Markets

Group Inc. at 4:00 p.m. New York City time on such date (or in either case the then-standard closing time for regular trading on the relevant exchange or trading system). If the closing sale price of the Common Stock is not so reported, the "Closing Sale Price" will be the average of the mid-point of the last bid and last ask prices for the Common Stock on the relevant date from each of at least three nationally recognized independent investment banking firms selected by the Company for this purpose.

"**Commission**" means the U.S. Securities and Exchange Commission, as from time to time constituted, created under the Exchange Act, or, if at any time after the execution of this Indenture such Commission is not existing and performing the duties now assigned to it under the Trust Indenture Act, then the body performing such duties at such time.

"**Common Equity**" of any Person means the Capital Stock of such Person that is generally entitled (a) to vote in the election of directors of such Person or (b) if such Person is not a corporation, to vote or otherwise participate in the selection of the governing body, partners, managers or others that will control the management or policies of such Person.

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"**Common Stock**" means the ordinary shares, par value \$0.001, of the Company authorized at the date of this instrument as originally executed or shares of any class or classes of ordinary shares resulting from any reclassification or reclassifications thereof; *provided, however*, that if at any time there shall be more than one such resulting class, the shares so issuable on conversion of Notes shall include shares of all such classes, and the shares of each such class then so issuable shall be substantially in the proportion which the total number of shares of such class resulting from all such reclassifications bears to the total number of shares of all such classes resulting from all such reclassifications.

"**Company**" has the meaning specified in the first paragraph of this Indenture, and subject to the provisions of Article 9, shall include its successors and assigns.

"**Company Order**" means a written request or order signed in the name of the Company by one of its Officers, and delivered to the Trustee.

"**Conversion Agent**" has the meaning specified in Section 4.02.

"**Conversion Date**" has the meaning specified in Section 3.02(b).

"**Conversion Notice**" has the meaning specified in Section 3.02(b).

"**Conversion Price**" means, in respect of each Note, as of any date, \$1,000 *divided by* the Conversion Rate in effect on such date; *provided, however*, that in no event will the Conversion Price be less than the Reset Floor (subject to equitable adjustment for reverse and forward stock splits, stock dividends, stock combinations and other similar transactions of the Common Stock).

"**Conversion Rate**" means, initially 39.2425 shares of Common Stock (subject to equitable adjustment as provided in Section 3.04 and, if applicable, Section 3.06) per \$1,000 of the sum of the principal amount of Notes plus accrued and unpaid interest on such Notes; *provided however*, that in no event will the Conversion Rate, after adjustment as provided in Section 3.04 or Section 3.06, be more than 125.0000 (subject to equitable adjustment for reverse and forward stock splits, stock dividends, stock combinations and other similar transactions of the Common Stock); *provided, further*, that the foregoing maximum Conversion Rate shall not apply to or limit the number of Additional Shares deliverable pursuant to Section 3.06 or the number of additional shares of Common Stock deliverable pursuant to Section 3.07, and any such Additional Shares or additional shares in excess of the maximum Conversion Rate shall be delivered to the converting Holder as additional consideration in connection with the applicable conversion, and if the Conversion Price is reset pursuant to Section 3.04(g), the Conversion Rate will be adjusted to equal \$1,000 divided by the Conversion Price.

"**Conversion Value**" means, with respect to any Note as of any date of determination, the product of (i) the Conversion Rate in effect on such date and (ii) the Closing Sale Price of the Common Stock on such date.

"**Corporate Trust Office**" means, with respect to the office of the Trustee, the designated corporate trust office of the Trustee, at which at any particular time this Indenture shall be principally administered, which office at the date hereof is located at West Side Flats, 60 Livingston Avenue, Saint Paul, MN 55107, Attn: B. Bonfig (Gorilla Technology Group Inc. Series B Notes Administrator) or such other address in the continental United States as the Trustee may designate from time to time by notice to the Holders and the Company, or the corporate trust office of any successor Trustee (or such other address as such successor Trustee may designate from time to time by notice to the Holders and the Company).

"**Corporation**" means a corporation, association, joint stock company, limited liability company or business trust.

"**Custodian**" means the Trustee, as custodian for the Depositary with respect to the Notes (so long as the Notes constitute Global Notes), or any successor entity.

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"**Daily VWAP**" for the Common Stock (or any security that is part of the Reference Property), in respect of any VWAP Trading Day, means the per share volume-weighted average price of the Common Stock (or other security) as displayed under the heading "Bloomberg VWAP" on Bloomberg Page "GRRR Equity AQR" (or its equivalent successor if such page is not available, or the Bloomberg Page for any security that is part of the Reference Property, if applicable) in respect of the period from the scheduled open of trading until the scheduled close of trading of the primary trading session on such VWAP Trading Day or, if such volume-weighted average price is unavailable (or the Reference Property is not a security), the market value of one share of the Common Stock (or other Reference Property) on such VWAP Trading Day as determined in good faith by the Board of Directors or a duly authorized committee thereof in a commercially reasonable manner, using a volume-weighted average price method (unless the Reference Property is not a security). The "Daily VWAP" will be determined without regard to after-hours trading or any other trading outside the regular trading session.

"**De-Legending Deadline Date**" means, with respect to any Note, the fifteenth (15th) day after the Free Trade Date of such Note; *provided, however*, that if the De-Legending Deadline Date determined as aforesaid would be after a Regular Record Date and before the fifth (5th) Business Day immediately after the next Interest Payment Date, then the De-Legending Deadline Date for such Note will instead be the fifth (5th) Business Day immediately after such Interest Payment Date.

"**Default**" means any event that is, or with the passage of time or the giving of notice or both would be, an Event of Default.

"**Depositary**" means, with respect to the Notes issuable or issued in the form of a Global Note, the Person designated as Depositary by the Company until a successor Depositary shall have become such pursuant to the applicable provisions of this Indenture, and thereafter "Depositary" shall mean or include each Person who is then a Depositary hereunder. The Company has appointed The Depository Trust Company as the initial Depositary for the Global Notes.

"**Disqualified Capital Stock**" of any Person means any class of Capital Stock of such Person that, by its terms, or by the terms of any related agreement or of any security into which it is convertible, puttable or exchangeable, is, or upon the happening of any event or the passage of time would be, required to be redeemed by such Person, whether or not at the option of the holder thereof, or matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, in whole or in part, on or prior to the date which is 91 days after the final maturity date of the Notes; *provided, however*, that any class of Capital Stock of such Person that, by its terms, authorizes such Person to

satisfy in full its obligations with respect to the payment of dividends or upon maturity, redemption (pursuant to a sinking fund or otherwise) or repurchase thereof or otherwise by the delivery of Capital Stock that are not Disqualified Capital Stock, and that is not convertible, puttable or exchangeable for Disqualified Capital Stock or Indebtedness, will not be deemed to be Disqualified Capital Stock so long as such Person satisfies its obligations with respect thereto solely by the delivery of Capital Stock that are not Disqualified Capital Stock.

“**Dollar**” or “**\$**” means a dollar or other equivalent unit in such coin or currency of the U.S. that is legal tender for the payment of public and private debts at the time of payment.

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“**Effective Date**” means, with respect to a Fundamental Change, the date such Fundamental Change occurs or becomes effective.

“**Event of Default**” has the meaning specified in Section 5.01.

“**Ex-Dividend Date**” means, except to the extent otherwise provided under Section 3.04(c), the first date on which the shares of Common Stock trade on the applicable exchange or in the applicable market, regular way, without the right to receive the issuance, dividend or distribution in question, from the Company or, if applicable, from the seller of the Common Stock on such exchange or market (in the form of due bills or otherwise) as determined by such exchange or market.

“**Excess Conversion Amount**” has the meaning specified in Section 3.01(c)(ii).

“**Exchange**” means The Nasdaq Capital Market or its successor.

“**Exchange Act**” means the U.S. Securities Exchange Act of 1934, as amended, and the rules and regulations of the Commission promulgated thereunder.

“**Form of Assignment and Transfer**” means the “Form of Assignment and Transfer” attached as Attachment 2 to the Form of Note attached hereto as Exhibit A.

“**Form of Fundamental Change Repurchase Notice**” means the “Form of Fundamental Change Repurchase Notice” attached as Attachment 4 to the Form of Note attached hereto as Exhibit A.

“**Form of Notice of Conversion**” means the “Form of Notice of Conversion” attached as Attachment 1 to the Form of Note attached hereto as Exhibit A.

“**Free Trade Date**” means, with respect to any Note, the date that is one (1) year after the Issue Date of such Note.

“**Freely Tradable**” means, with respect to any Notes or any shares of Common Stock issuable upon conversion of any Notes, that such Notes or such shares, as the case may be, are (a) registered on an effective registration statement and/or (b) eligible to be sold by a Person who is not an affiliate of the Company (within the meaning of Rule 144) and has not been an affiliate of the Company (within the meaning of Rule 144) during the immediately preceding 90 days without any volume or manner of sale restrictions under the Securities Act; provided, that from and after the Free Trade Date of such Note, such Note will not be “Freely Tradable” unless such Note (x) is not identified by a “restricted” CUSIP or ISIN number; and (y) is not represented by any certificate that bears the Restricted Notes Legend. For the avoidance of doubt, whether a Note is deemed to be identified by a “restricted” CUSIP or ISIN number or to bear the Restricted Notes Legend is subject to Section 2.16.

“**Fundamental Change**” means the occurrence of a Change of Control or a Termination of Trading. Any event, transaction or series of related transactions described under both clause (i) and clause (ii) of the definition of Change of Control (without giving effect to the provisos in clause (ii) of the definition of Change of Control) shall be deemed to occur solely pursuant to clause (ii) of the definition of Change of Control (subject to such provisos).

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“**Fundamental Change Company Notice**” has the meaning specified in Section 11.01(c).

“**Fundamental Change Repurchase Date**” has the meaning specified in Section 11.01(a).

“**Fundamental Change Repurchase Notice**” has the meaning specified in Section 11.01(b)(i).

“**Fundamental Change Repurchase Price**” has the meaning specified in Section 11.01(a).

“**Global Note**” means a Note evidencing all or part of a series of Notes, issued to the Depositary for such series or its nominee, and registered in the name of such Depositary or nominee issued in minimum denominations of \$1,000.00 principal amount and integral multiples of \$1,000.00 in excess thereof.

“**Governmental Authority**” means any nation or government, any state, province or other political subdivision thereof and any entity exercising executive, legislative, judicial, regulatory, taxing or administrative functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank) and any group or body charged with setting financing accounting or regulatory capital rules or standards (including, without limitation, the Financial Accounting Standards Board, the Bank for International Settlement or the Basel Committee on Banking Supervision or any successor or similar authority to any of the foregoing) and including, for the avoidance of doubt, the Council of Ministers of the European Union, the Financial Conduct Authority (acting in accordance with Part 6 of the Financial Services and Markets Act 2000 (UK)) and the Prudential Regulatory Authority.

“**Holder**” means the Person in whose name a Note is registered in the Register.

“**IFRS**” shall mean International Financial Reporting Standards as issued by the International Accounting Standards Board, in effect from time to time.

“**Indebtedness**” means, as to any Person at a particular time, without duplication, all of the following, whether or not included as indebtedness or liabilities in accordance with IFRS:

- (i) all indebtedness of such Person for borrowed money and all indebtedness of such Person evidenced by bonds, debentures, notes, loan agreements or other similar instruments;
- (ii) the maximum amount (after giving effect to any prior drawings or reductions which may have been reimbursed) available under all letters of credit (including standby and commercial), bankers’ acceptances, bank guaranties, surety bonds, performance bonds and similar instruments issued or created by or for the account of such Person;

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- (iii) all obligations of such Person to pay the deferred purchase price of property or services, including earn-out obligations (other than (A) trade accounts payable in the ordinary course of business and (B) to the extent such obligation is not due at any time prior to the date that is six months after the Maturity Date, any earn-out obligation until such obligation becomes a liability on the balance sheet of such Person in accordance with IFRS);
- (iv) indebtedness (excluding prepaid interest thereon) secured by a Lien on property owned or being purchased by such Person (including indebtedness arising under conditional sales or other title retention agreements and mortgage, industrial revenue bond, industrial development bond and similar financings), whether or not such indebtedness shall have been assumed by such Person or is limited in recourse;
- (v) shall mean, on any date, in respect of any Capitalized Leases of any Person, the capitalized amount thereof that would appear on a balance sheet of such Person prepared as of such date in accordance with IFRS; and
- (vi) all obligations of such Person in respect of Disqualified Capital Stock.

*provided*, that Indebtedness shall not include (A) prepaid or deferred revenue arising in the ordinary course of business, (B) purchase price holdbacks arising in the ordinary course of business in respect of a portion of the purchase price of an asset to satisfy warranties or other unperformed obligations of the seller of such asset and (C) endorsements of checks or drafts arising in the ordinary course of business.

**“Indenture”** means this Indenture as amended or supplemented from time to time.

**“Indenture Documents”** means this Indenture, the Notes, and any other instrument or agreement entered into, now or in the future, by the Company and, if necessary, the Trustee, on the other hand, in connection with the Indenture.

**“Interest Payment Date”** means, with respect to the payment of interest on the Notes, each June 15 and December 15 of each calendar year, beginning on the first such date that is at least 30 calendar days after the Issue Date and on the Maturity Date.

**“Issue Date”** means July 17, 2026.

**“Lien”** shall mean any mortgage, pledge, security interest, hypothecation, assignment for collateral purposes, lien (statutory or other) or similar encumbrance, and any easement, right-of-way, license, restriction (including zoning restrictions), defect, exception or irregularity in title or similar charge or encumbrance (including any agreement to give any of the foregoing, any conditional sale or other title retention agreement or any lease in the nature thereof); *provided*, that in no event shall an operating lease entered into in the ordinary course of business or any precautionary UCC filings made pursuant thereto by an applicable lessor or lessee, be deemed to be a Lien.

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**“Make-Whole Fundamental Change”** means a Fundamental Change, but without regard to the first and second provisos to clause (ii) of the definition of Change of Control.

**“Make-Whole Amount”** means the increase to the Conversion Rate resulting from the addition of Additional Shares pursuant to Section 3.06.

**“Make-Whole Fundamental Change Conversion Period”** means the period from, and including, the Make-Whole Fundamental Change Effective Date of such Make-Whole Fundamental Change to, and including, the thirty-fifth (35<sup>th</sup>) Trading Day after such Make-Whole Fundamental Change Effective Date (or, if such Make-Whole Fundamental Change also constitutes a Fundamental Change, to, but excluding, the related Fundamental Change Repurchase Date).

**“Make-Whole Fundamental Change Effective Date”** means the date on which such Make-Whole Fundamental Change occurs or becomes effective.

**“Market Disruption Event”** means, if the Common Stock is listed for trading on the Exchange or listed on another U.S. national or regional securities exchange, the occurrence or existence during the one-half hour period ending on the scheduled close of trading on any Scheduled Trading Day of any material suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the stock exchange or otherwise) in the Common Stock or in any options, contracts or futures contracts relating to the Common Stock.

**“Maturity Date”** means June 15, 2031.

**“Merger Event”** has the meaning specified in Section 3.08(a).

**“Non-Affiliate Legend”** has the meaning specified in the Form of Note attached hereto as Exhibit A.

**“Note” or “Notes”** has the meaning specified in the first paragraph of the Recitals of this Indenture.

**“Obligations”** means (a) obligations of the Company from time to time to pay (and otherwise arising under or in respect of the due and punctual payment of) (i) principal, interest (including Additional Interest and interest accruing during the pendency of any bankruptcy, insolvency, reorganization or similar proceeding, regardless of whether allowed or allowable in such proceeding) and all other obligations of the Company under this Indenture, the Notes issued hereunder and the other Indenture Documents (including, without limitation, any applicable premium) when and as due, whether at maturity, by acceleration, upon one or more dates set for redemption or otherwise, and (ii) all other monetary obligations, including fees, costs, expenses and indemnities, whether primary, secondary, direct, contingent, fixed or otherwise (including monetary obligations incurred during the pendency of any bankruptcy, insolvency, reorganization or similar proceeding, regardless of whether allowed or allowable in such proceeding), of the Company under this Indenture and the other Indenture Documents, and (b) the due and punctual performance of all covenants, agreements, obligations and liabilities of the Company under or pursuant to this Indenture and the other Indenture Documents.

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**“Offer Expiration Date”** has the meaning specified in Section 3.04(e).

**“Officer” or “officer”** shall mean, the Chairman of the Board of Directors, the Chief Executive Officer, the Chief Financial Officer, the President, a Vice President (whether or not designated by a number or word or words added before or after the title “Vice President”) or any Director of the Company.

**“Officer’s Certificate”** means a certificate signed by an Officer of the Company and delivered to the Trustee.

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

**“Opinion of Counsel”** means a written opinion of counsel, who may be an employee of, or counsel for, the Company or an Affiliate of the Company, who is reasonably satisfactory to the Trustee.

**“Outstanding”** means, with respect to the Notes, any Notes authenticated by the Trustee except (i) Notes cancelled by it, (ii) Notes delivered to it for cancellation and (iii) (A) Notes replaced pursuant to Section 2.09 hereof, on and after the time such Note is replaced (unless the Trustee and the Company receive proof satisfactory to them that such Note is held by a protected purchaser), (B) Notes converted pursuant to Article 3, on and after their Conversion Date, (C) any and all Notes, the principal of which has become due and payable as of the Maturity Date, on a Fundamental Change Repurchase Date or otherwise and in respect of which the Paying Agent is holding, in accordance with this Indenture, money sufficient to pay or repurchase all of the Notes then to be paid or repurchased and (D) any and all Notes owned by the Company or any other obligor upon the Notes or any Affiliate of the Company or of such other obligor. In determining whether the Holders of the required principal amount of Notes have concurred in any request, demand, authorization, direction, notice, consent or waiver, Notes owned by the Company or any other obligor upon the Notes or any Affiliate of the Company will be considered as though not Outstanding, except that in determining whether the Trustee shall be protected in relying upon any request, demand, authorization, direction, notice, consent or waiver, only such Notes which a Responsible Officer of the Trustee actually knows to be so owned shall be disregarded.

**“Paying Agent”** means, initially, the Trustee or any Person authorized by the Company in the future to pay the principal amount of, any premium on, interest on or the Fundamental Change Repurchase Price of any Notes on behalf of the Company.

**“Permitted Exchange”** has the meaning specified in the definition of “Termination of Trading” under this Section 1.01.

**“Person”** means any individual, corporation, partnership, limited liability company, joint venture, trust, unincorporated organization, Governmental Authority, or other government or any agency or political subdivision thereof.

**“Physical Notes”** means permanent, non-global certificated Notes in definitive, fully registered form issued in minimum denominations of \$1,000.00 principal amount and integral multiples of \$1,000.00 in excess thereof.

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**“Pre-Reset Conversion Price”** has the meaning specified in Section 3.04(g).

**“Record Date”** means, with respect to any dividend, distribution or other transaction or event in which the holders of Common Stock have the right to receive any cash, securities or other property or in which Common Stock (or other applicable security) is exchanged for or converted into any combination of cash, securities or other property, the date fixed for determination of holders of Common Stock entitled to receive such cash, securities or other property (whether such date is fixed by the Board of Directors or a duly authorized committee thereof, statute, contract or otherwise).

**“Redemption Notice”** means a notice of redemption delivered by the Company to the Holders pursuant to Section 9.04.

**“Reference Property”** has the meaning specified in Section 3.08(a).

**“Register”** and **“Registrar”** have the respective meanings specified in Section 2.06.

**“Regular Record Date”** means, with respect to any scheduled Interest Payment Date, June 1 (whether or not a Business Day) or December 1 (whether or not a Business Day), as the case may be, immediately preceding such Interest Payment Date.

**“Relevant Distribution”** has the meaning specified in Section 3.04(c).

**“Reporting Event of Default”** has the meaning specified in Section 5.03(a).

**“Required Holders”** means, as of any date of determination, the Holders of at least a majority in aggregate principal amount of the Notes then Outstanding.

**“Reset Date”** has the meaning specified in Section 3.04(g).

**“Reset Event”** means any reset of the Conversion Price pursuant to Section 3.04(g).

**“Reset Floor”** means \$8.00 (subject to equitable adjustment for reverse and forward stock splits, stock dividends, stock combinations and other similar transactions of the Common Stock).

**“Responsible Officer,”** when used with respect to the Trustee, means any officer within the corporate trust department (or any other successor group of the Trustee), including any Vice President, Assistant Vice President, Assistant Secretary or any other officer of the Trustee customarily performing functions similar to those performed by any of the above designated officers who at the time shall be such officers, respectively, or any other officer to whom any corporate trust matter relating to this Indenture is referred because of his or her knowledge of and familiarity with the particular subject and who in each case shall have direct responsibility for the administration of this Indenture.

**“Restricted Global Note”** has the meaning specified in Section 2.08(b)(i).

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**“Restricted Note”** has the meaning specified in Section 2.14(a)(i).

**“Restricted Notes Legend”** has the meaning specified in the Form of Note attached hereto as Exhibit A.

**“Restricted Ownership Percentage”** has the meaning specified in Section 3.01(c).

**“Restricted Stock”** has the meaning specified in Section 2.14(b)(i).

**“Restricted Stock Legend”** means a legend substantially in the form set forth in Exhibit B hereto.

**“Rule 144”** means Rule 144 under the Securities Act (including any successor rule thereto), as the same may be amended from time to time.

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

“**Securities Act**” means the U.S. Securities Act of 1933, as amended, and the rules and regulations of the Commission promulgated thereunder.

“**Settlement Amount**” has the meaning specified in Section 3.03(a).

“**Significant Subsidiary**” means, with respect to any Person at any given time, a Subsidiary of such person that would constitute a “significant subsidiary” as such term is defined in Article 1, Rule 1-02 of Regulation S-X, promulgated pursuant to the Securities Act, as in effect on the Issue Date.

“**Spin-Off**” has the meaning specified in Section 3.04(c).

“**Stock Interest**” has the meaning specified in Section 2.13.

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

“**Subsidiary**” of any Person means (a) any corporation, association or other business entity of which more than 50% of the outstanding total voting power ordinarily entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers, trustees or other voting members of the governing body thereof is at the time owned or controlled, directly or indirectly, by the Company or by one or more other Subsidiaries, or by the Company and one or more other Subsidiaries or (b) any partnership the sole general partner or the managing general partner of which is the Company or a Subsidiary of the Company or the only general partners of which are the Company or of one or more Subsidiaries of the Company (or any combination thereof).

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“**Successor Company**” has the meaning specified in Section 8.01(a).

“**Termination of Trading**” means that the Common Stock (or other Reference Property into which the Notes are then convertible pursuant to the terms of this Indenture) are not listed for trading on any of the Exchange, The New York Stock Exchange, The Nasdaq Global Market or The Nasdaq Global Select Market (or any of their respective successors) (such exchanges or any of their respective successors, a “**Permitted Exchange**”).

“**Trading Day**” means a day on which (i) the Exchange or, if the Common Stock is not listed on the Exchange, the principal other U.S. national or regional securities exchange on which the Common Stock is then listed is open for trading or, if the Common Stock is not so listed, any Business Day and (ii) a Closing Sale Price for the Common Stock is available on such securities exchange or market. A “Trading Day” only includes those days that have a scheduled closing time of 4:00 p.m. (New York City time) or the then-standard closing time for regular trading on the relevant exchange or trading system.

“**Trigger Event**” has the meaning specified in Section 3.04(c).

“**Trustee**” means the Person named as the “Trustee” in the first paragraph of this Indenture in its capacity as such until a successor Trustee shall have become such pursuant to Section 10.11, and thereafter “Trustee” shall mean or include each Person who is then a Trustee hereunder.

“**Trust Indenture Act**” means the Trust Indenture Act of 1939, as amended.

“**Unit of Reference Property**” has the meaning specified in Section 3.07(a).

“**Upward Average Price**” has the meaning set forth in Section 3.04(g).

“**Upward Reset Date**” has the meaning specified in Section 3.04(g).

“**U.S.**” means the United States of America.

“**Valuation Period**” has the meaning specified in Section 3.04(c).

“**VWAP Market Disruption Event**” means (i) a failure by the primary exchange or quotation system on which the Common Stock trades or is quoted to open for trading during its regular trading session or (ii) the occurrence or existence for more than one half-hour period in the aggregate on any Scheduled Trading Day for the Common Stock of any suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the Exchange or otherwise) in the Common Stock or in any options, contracts or futures contracts relating to the Common Stock, and such suspension or limitation occurs or exists at any time before 1:00 p.m. (New York City time) on such day.

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“**VWAP Trading Day**” means a day on which (i) there is no VWAP Market Disruption Event and (ii) the Exchange or, if the Common Stock is not listed on the Exchange, the principal other U.S. national or regional securities exchange on which the Common Stock is then listed is open for trading or, if the Common Stock is not so listed, any Business Day. A “VWAP Trading Day” only includes those days that have a scheduled closing time of 4:00 p.m. (New York City time) or the then-standard closing time for regular trading on the relevant exchange or trading system.

“**Weighted Average Issuance Price**” has the meaning specified in Section 3.04(f).

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

## **Section 1.02 References to Interest.**

Any reference to interest on, or in respect of, any Note in this Indenture shall be deemed to include Additional Interest, if, in such context, Additional Interest, is, was or would be payable pursuant hereto. Any express mention of the payment of Additional Interest in any provision hereof shall not be construed as excluding Additional Interest in those provisions hereof where such express mention is not made.

## **Section 1.03 Acts of Holders.**

(a) Any request, demand, authorization, direction, notice, consent, waiver or other action provided or permitted by this Indenture to be made, given or taken by Holders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by an agent duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Trustee and, where it is hereby expressly required, to the Company. Such instrument or instruments (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the “Act” of the Holders signing such instrument or instruments. Proof of execution of any such instrument or of a writing appointing any such agent, or of the holding by any Person of Notes, shall be sufficient for any purpose of this Indenture and conclusive in favor of the Trustee and the Company, if made in the manner provided in this Section 1.03.

(b) The fact and date of the execution by any Person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by a certificate of a notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the individual signing such instrument or writing acknowledged to him the execution thereof. Where such execution is by a signer acting in a capacity other than his individual capacity, such certificate or affidavit shall also constitute sufficient proof of his authority. The fact and date of the execution of any such instrument or writing, or the authority of the Person executing the same, may also be proved in any other manner which the Trustee deems sufficient.

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(c) The amount of Notes held by any Person executing any such instrument or writings as the Holder thereof, the numbers of such Notes and the date of his holding the same may be proved by the production of such Notes or by a certificate executed, as depository, by any trust company, bank, banker or member of a national securities exchange (wherever situated), if such certificate is in form satisfactory to the Trustee, showing that at the date therein mentioned such Person had on deposit with such depository, or exhibited to it, the Notes therein described; or such facts may be proved by the certificate or affidavit of the Person executing such instrument or writing as the Holder thereof, if such certificate or affidavit is in form satisfactory to the Trustee. The Trustee and the Company may assume that such ownership of any Notes continues until (1) another certificate bearing a later date issued in respect of the same Notes is produced or (2) such Notes are produced by some other Person or (3) such Notes are no longer Outstanding.

(d) The fact and date of execution of any such instrument or writing and the amount and number of Notes held by the Person so executing such instrument or writing may also be proved in any other manner that the Trustee deems sufficient. The Trustee may in any instance require further proof with respect to any of the matters referred to in this Section 1.03.

(e) The principal amount (except as otherwise contemplated in clause (ii) of the definition of “Outstanding”), serial numbers of Notes held by any Person and the date of holding the same shall be proved by the Register.

(f) Any request, demand, authorization, direction, notice, consent, election, waiver or other Act of the Holder of any Note shall bind every future Holder of the same Note and the Holder of every Note issued upon the registration of transfer thereof or in exchange therefor or in lieu thereof in respect of anything done, omitted or suffered to be done by the Trustee or the Company in reliance thereon, whether or not notation of such action is made upon such Note.

(g) The Company may but shall not be obligated to set a record date for purposes of determining the identity of Holders of any Outstanding Notes entitled to vote or consent to any action by vote or consent authorized or permitted by Sections 5.02, 5.04, 5.05, 5.06, 7.02 or 10.10. Such record date shall be not less than 10 nor more than 60 days prior to the first solicitation of such consent or the date of the most recent list of Holders of such Notes furnished to the Trustee pursuant to Section 4.13 prior to such solicitation.

(h) If the Company solicits from Holders any request, demand, authorization, direction, notice, consent, election, waiver or other Act, the Company may, at its option, fix in advance a record date for the determination of Holders entitled to give such request, demand, authorization, direction, notice, consent, election, waiver or other Act, but the Company shall have no obligation to do so. If such a record date is fixed, such request, demand, authorization, direction, notice, consent, election, waiver or other Act may be given before or after such record date, but only the Holders of record at the close of business on the record date shall be deemed to be Holders for the purposes of determining whether Holders of the requisite proportion of the Outstanding Notes have authorized or agreed or consented to such request, demand, authorization, direction, notice, consent, election, waiver or other Act, and for that purpose the Outstanding Notes shall be computed as of the record date; provided that no such authorization, agreement or consent by the Holders on such record date shall be deemed effective unless it shall become effective pursuant to the provisions of this Indenture not later than six months after the record date.

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## **ARTICLE 2 THE NOTES**

### ***Section 2.01 Title and Terms; Payments.***

The aggregate principal amount of Notes that may be authenticated and delivered under this Indenture is \$125,000,000, except for Notes authenticated and delivered upon registration or transfer of, or in exchange for other Notes pursuant to Sections 2.05, 2.06, 2.07, 2.09 or 3.02(d).

The Notes shall be known and designated as the “7.50% Senior Unsecured Convertible Notes, Series B due 2031” of the Company. The principal amount shall be payable on the Maturity Date unless no longer Outstanding because earlier purchased or converted in accordance with this Indenture.

The Notes shall initially be delivered on the Issue Date in the form of Global Notes. The principal amount of Physical Notes shall be payable in U.S. dollars at the Corporate Trust Office and at any other office or agency maintained by the Company for such purpose. Interest on Physical Notes will be payable (i) to Holders holding Physical Notes having an aggregate principal amount of \$1,000,000 or less of Notes, by check mailed to such Holders at the address set forth in the Register, and (ii) to Holders holding Physical Notes having an aggregate principal amount of more than \$1,000,000 of Notes, either by check mailed to such Holders or, upon written application by a Holder to the Company and Paying Agent by (x) with respect to the payment of any interest due on an Interest Payment Date, the immediately preceding Regular Record Date; (y) with respect to any cash conversion consideration, the relevant Conversion Date; and (z) with respect to any other payment, the date that fifteen (15) calendar days immediately before the date such payment is due by wire transfer in immediately available funds to such Holder's account within the U.S. if such Holder has provided the Trustee or the Paying Agent with an application containing the requisite information necessary to make such wire transfer, which application shall remain in effect until the Holder notifies the Paying Agent to the contrary in writing. The Company will pay or cause the Trustee or the Paying Agent to pay principal of Global Notes in U.S. dollars and immediately available funds to the Depository or its nominee, as the case may be, as the registered Holder of such Global Note, on each Interest Payment Date, Fundamental Change Repurchase Date, the Maturity Date or other payment date, as the case may be.

### ***Section 2.02 Ranking.***

The Notes constitute direct senior unsecured obligations of the Company.

### ***Section 2.03 Denominations.***

The Notes shall be issuable only in registered form without coupons and in minimum denominations of \$1,000.00 and any integral multiple of \$1,000.00 in excess thereof.

#### **Section 2.04 Execution, Authentication, Delivery and Dating.**

The Notes shall be executed on behalf of the Company by one of its Officers.

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Notes bearing the electronic, manual or facsimile signatures of individuals who were at any time Officers of the Company shall bind the Company, notwithstanding that such individual has ceased to hold such office prior to the authentication and delivery of such Notes or did not hold such office at the date of such Notes.

At any time and from time to time after the execution and delivery of this Indenture, the Company may deliver Notes executed by the Company to the Trustee for authentication, together with a Company Order for the authentication and delivery of such Notes. The Company Order shall specify the amount of Notes to be authenticated, and shall further specify the amount of such Notes to be issued as one or more Global Notes or as one or more Physical Notes. The Trustee in accordance with such Company Order shall authenticate and deliver such Notes as provided in this Indenture and not otherwise.

Each Note shall be dated the date of its authentication.

No Note shall be entitled to any benefit under this Indenture or be valid or obligatory for any purpose unless there appears on such Note a certificate of authentication substantially in the form provided for herein executed by an authorized signatory of the Trustee by manual signature, and such certificate upon any Note shall be conclusive evidence, and the only evidence, that such Note has been duly authenticated and delivered hereunder.

#### **Section 2.05 Temporary Notes.**

Pending the preparation of Physical Notes, the Company may execute, and upon Company Order the Trustee shall authenticate and deliver, temporary Notes that are printed, lithographed, typewritten, mimeographed or otherwise produced, in any authorized denomination, substantially of the tenor of the Physical Notes in lieu of which they are issued and with such appropriate insertions, omissions, substitutions and other variations as the Officer executing such Notes may determine, as evidenced by such Officer's execution of such Notes; provided that any such temporary Notes shall bear legends on the face of such Notes as set forth in the Form of Note attached hereto as Exhibit A and/or Sections 2.09 and 2.14.

After the preparation of Physical Notes, the temporary Notes shall be exchangeable for Physical Notes upon surrender of the temporary Notes at any office or agency of the Company designated pursuant to Section 4.02, without charge to the Holder. Upon surrender for cancellation of any one or more temporary Notes, the Company shall execute, and the Trustee shall, upon receipt of a Company Order, authenticate and deliver, in exchange therefor a like principal amount of Physical Notes of authorized denominations. Until so exchanged, the temporary Notes shall in all respects be entitled to the same benefits under this Indenture as Physical Notes.

#### **Section 2.06 Registration; Registration of Transfer and Exchange.**

(a) The Company shall cause to be kept at the applicable Corporate Trust Office of the Trustee in the continental United States a register (the register maintained in such office and in any other office or agency designated pursuant to Section 4.02 being herein sometimes collectively referred to as the "**Register**") in which, subject to such reasonable regulations as it may prescribe, the Company shall provide for the registration and transfer of Notes. The Trustee is hereby appointed registrar (the "**Registrar**") for the purpose of registering the transfer and exchange of the Notes as herein provided.

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(i) Upon surrender for registration of transfer of any Note at an office or agency of the Company designated pursuant to Section 5.02 for such purpose, the Company shall execute, and upon receipt of a Company Order the Trustee shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Notes of any authorized denomination and of a like aggregate principal amount and tenor, each such Note bearing such restrictive legends as may be required by this Indenture (including the Form of Note attached hereto as Exhibit A and Sections 2.09 and 2.14).

(ii) At the option of the Holder, and subject to the other provisions of Sections 2.09 and 2.14, Notes may be exchanged for other Notes of any authorized denomination and of a like aggregate principal amount and tenor, upon surrender of the Notes to be exchanged at such office or agency. Whenever any Notes are so surrendered for exchange, the Company shall execute, and the Trustee shall, upon receipt of a Company Order, authenticate and deliver, the Notes which the Holder making the exchange is entitled to receive.

(iii) All Notes issued upon any registration of transfer or exchange of Notes shall be the valid obligations of the Company evidencing the same debt, and entitled to the same benefits under this Indenture as the Notes surrendered upon such registration of transfer or exchange.

(iv) Every Note presented or surrendered for registration of transfer or for exchange shall (if so required by the Company or the Trustee) be duly endorsed, or be accompanied by a written instrument of transfer in form satisfactory to the Company and the Registrar duly executed, by the Holder thereof or his attorney duly authorized in writing. As a condition to the registration of transfer of any Restricted Notes, the Company or the Trustee may require evidence satisfactory to them as to the compliance with the restrictions set forth in the legend on such Notes.

(v) No service charge shall be made for any registration of transfer or exchange of Notes, but the Company and the Registrar may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any registration of transfer or exchange of Notes, other than exchanges pursuant to Section 2.09 not involving any transfer.

(vi) Neither the Company nor the Registrar shall be required to exchange or register a transfer of any Note in the circumstances set forth in Section 2.09(a)(iv).

(b) Neither any members of, or participants in, the Depositary (collectively, the "**Agent Members**") nor any other Persons on whose behalf any Agent Member may act shall have any rights under this Indenture with respect to any Global Note registered in the name of the Depositary or any nominee thereof, or under any such Global Note, and the Depositary or such nominee, as the case may be, may be treated by the Company, the Trustee, the Agents and any of their respective agents as the absolute owner and Holder of such Global Note for all purposes whatsoever. Neither the Trustee nor any Agent shall have any liability, responsibility or obligation to any Agent Members or any other Person on whose behalf Agent Members may act with respect to (i) any ownership interests in the Global Note, (ii) the accuracy of the records of the Depositary or its nominee, (iii) any notice required hereunder, (iv) any payments under or with respect to the Global Note or (v) actions taken or not taken by any Agent Members.

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(c) Notwithstanding the foregoing, nothing herein shall prevent the Company, the Trustee, any Agent or any of their respective agents from giving effect to any written certification, proxy or other authorization furnished by the Depositary or such nominee, as the case may be, or impair, as between the Depositary, its Agent Members and any other Person on whose behalf an Agent Member may act, the operation of customary practices of such Persons governing the exercise of the rights of a Holder of any Note. The registered Holder of a Global Note may grant proxies and otherwise authorize any Person, including Agent Members and persons that may hold interests through Agent Members, to take any action that a Holder is entitled to take under this Indenture or the Notes.

#### **Section 2.07 *Mutilated, Destroyed, Lost and Stolen Notes.***

If any mutilated Note is surrendered to the Trustee, the Company shall execute, and the Trustee shall, upon receipt of a Company Order, authenticate and deliver, in exchange therefor a new Note of like tenor and principal amount and bearing a number not contemporaneously outstanding. If there shall be delivered to the Company and the Trustee (i) evidence to their satisfaction of the destruction, loss or theft of any Note and (ii) such security or indemnity as may be required by the Trustee (to protect the Trustee) and the Company to save each of them and any agent of either of them harmless, then, in the absence of written notice to the Company or the Trustee that such Note has been acquired by a protected purchaser, the Company shall execute, and the Trustee shall authenticate and deliver, in lieu of any such destroyed, lost or stolen Note, a new Note of like tenor and principal amount and bearing a number not contemporaneously outstanding.

In case any such mutilated, destroyed, lost or stolen Note has become due and payable, the Company in its discretion may, instead of issuing a new Note, pay such Note.

Upon the issuance of any new Note under this Section 2.07, the Company may require payment by the Holder of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Trustee) connected therewith.

Every new Note issued pursuant to this Section 2.07 in lieu of any destroyed, lost or stolen Note shall constitute an original additional contractual obligation of the Company, whether or not the destroyed, lost or stolen Note shall be at any time enforceable by anyone, and shall be entitled to all the benefits of this Indenture equally and proportionately with any and all other Notes duly issued hereunder.

The provisions of this Section 2.09 are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or stolen Notes.

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#### **Section 2.08 *Persons Deemed Owners.***

Subject to the rights of Holders as of the Regular Record Date to receive payments of interest on the related Interest Payment Date, prior to due presentment of a Note for registration of transfer, the Company, the Trustee, each Agent, and any of their respective agents may treat the Person in whose name such Note is registered in the Register as the owner of such Note for the purpose of receiving payment of the principal of such Note and for all other purposes whatsoever, whether or not such Note be overdue, and neither the Company, the Trustee, the Agents nor any of their respective agents shall be affected by notice to the contrary.

#### **Section 2.09 *Transfer and Exchange.***

##### **(a) *Provisions Applicable to All Transfers and Exchanges.***

(i) Subject to the restrictions set forth in this Section 2.09, Physical Notes and beneficial interests in Global Notes may be transferred or exchanged from time to time as desired, and each such transfer or exchange will be noted by the Registrar in the Register.

(ii) All Notes issued upon any registration of transfer or exchange in accordance with this Indenture will be the valid obligations of the Company, evidencing the same debt, and entitled to the same benefits under this Indenture as the Notes surrendered upon such registration of transfer or exchange.

(iii) No service charge will be imposed on any Holder of a Physical Note or any owner of a beneficial interest in a Global Note for any exchange or registration of transfer, but each of the Company, the Trustee or the Registrar may require such Holder or owner of a beneficial interest to pay a sum sufficient to cover any transfer tax, assessment or other governmental charge imposed in connection with such registration of transfer or exchange.

(iv) Unless the Company and the Trustee specifies otherwise, none of the Company, the Trustee, the Registrar or any co-Registrar will be required to exchange or register a transfer of any Note (A) that has been surrendered for conversion; or (B) that is subject to a Fundamental Change Repurchase Notice validly delivered, and not withdrawn pursuant to Section 13.01(b), in each case, except to the extent any portion of such Note is not subject to the foregoing.

(v) Neither the Trustee nor any Agent will have any obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Indenture or under applicable law with respect to any transfer of any interest in any Note (including any transfers between or among Depositary participants or beneficial owners of interests in any Global Note) other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by the terms of, this Indenture, and to examine the same to determine substantial compliance as to form with the express requirements hereof.

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(b) *In General; Transfer and Exchange of Beneficial Interests in Global Notes.* So long as the Notes are eligible for book-entry settlement with the Depositary, unless otherwise required by law or by Section 2.09(c):

(i) all Notes will be represented by one or more Global Notes;

(ii) every transfer and exchange of a beneficial interest in a Global Note will be effected through the Depositary in accordance with the Applicable Procedures and the provisions of this Indenture (including the restrictions on transfer set forth in Section 2.14); and

(iii) each Global Note may be transferred only as a whole and only (A) by the Depositary to a nominee of the Depositary, (B) by a nominee of the Depositary to the Depositary or to another nominee of the Depositary or (C) by the Depositary or any such nominee to a successor Depositary or a nominee of such successor Depositary.

##### **(c) *Transfer and Exchange of Global Notes for Physical Notes.***

(i) Notwithstanding any other provision of this Indenture, each Global Note will be exchanged for Physical Notes if the Depositary delivers notice to the Company that:

- (A) the Depositary is unwilling or unable to continue to act as Depositary; or
- (B) the Depositary is no longer registered as a clearing agency under the Exchange Act or is otherwise no longer permitted under applicable law to continue as Depositary for such Global Note;

and, in each case, the Company promptly delivers a copy of such notice to the Trustee and the Company fails to appoint a successor Depositary within 90 days after receiving notice from the Depositary.

In each such case, the Company will, in accordance with Section 2.04, promptly execute, and, upon receipt of a Company Order, the Trustee will, in accordance with Section 2.04, promptly authenticate and deliver, for each beneficial interest in each Global Note so exchanged, an aggregate principal amount of Physical Notes equal to the aggregate principal amount of such beneficial interest, registered in such names and in such authorized denominations as the Depositary specifies, and bearing any legends that such Physical Notes are required to bear under Section 2.14.

(ii) In addition, if an Event of Default has occurred with regard to the Notes represented by the relevant Global Note and such Event of Default has not been cured or waived, any owner of a beneficial interest in a Global Note may deliver a written request through the Depositary to exchange such beneficial interest for Physical Notes.

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In such case, (A) the Registrar will deliver notice of such request to the Company and the Trustee, which notice will identify the aggregate principal amount of such beneficial interest and the CUSIP of the relevant Global Note; (B) the Company will, in accordance with Section 2.04, promptly execute, and, upon receipt of a Company Order, the Trustee, in accordance with Section 2.04, will promptly authenticate and deliver, to such owner, for the beneficial interest so exchanged by such owner, Physical Notes registered in such owner's name having an aggregate principal amount equal to the aggregate principal amount of such beneficial interest as the Depositary specifies, and bearing any legends that such Physical Notes are required to bear under Section 2.14; and (C) the Trustee, in accordance with the Applicable Procedures, will cause the principal amount of such Global Note to be decreased by the aggregate principal amount of the beneficial interest so exchanged. If all of the beneficial interests in a Global Note are so exchanged, such Global Note will be deemed surrendered to the Trustee for cancellation, and the Trustee will cause such Global Note to be cancelled in accordance with the Trustee's customary procedures and the Applicable Procedures.

*(d) Transfer and Exchange of Physical Notes.*

(i) If Physical Notes are issued, a Holder may transfer a Physical Note by: (A) surrendering such Physical Note for registration of transfer to the Registrar, together with any endorsements or instruments of transfer required by any of the Company, the Trustee or the Registrar; (B) if such Physical Note is a Restricted Note, delivering any documentation required by Section 2.14; and (C) satisfying all other requirements for such transfer set forth in this Section 2.09. Upon the satisfaction of conditions (A), (B) and (C) of the immediately preceding sentence, the Company, in accordance with Section 2.04, will promptly execute and deliver to the Trustee, and the Trustee, upon receipt of a Company Order, will, in accordance with Section 2.04, promptly authenticate and deliver, in the name of the designated transferee or transferees, one or more new Physical Notes, of any authorized denomination, having like aggregate principal amount and bearing any legends that such Physical Notes are required to bear under Section 2.14.

(ii) If Physical Notes are issued, a Holder may exchange a Physical Note for other Physical Notes of any authorized denominations and aggregate principal amount equal to the aggregate principal amount of the Notes to be exchanged by surrendering such Notes, together with any endorsements or instruments of transfer required by any of the Company, the Trustee or the Registrar, at any office or agency maintained by the Company for such purposes pursuant to Section 5.02. Whenever a Holder surrenders Notes for exchange, the Company, in accordance with Section 2.04, will promptly execute and deliver to the Trustee, and the Trustee, upon receipt of a Company Order and in accordance with Section 2.04, will promptly authenticate and deliver the Notes that such Holder is entitled to receive, bearing registration numbers not contemporaneously outstanding and any legends that such Physical Notes are required to bear under Section 2.14.

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(iii) Subject to Section 2.01 herein, if Physical Notes are issued, a Holder may transfer or exchange a Physical Note for a beneficial interest in a Global Note by (A) surrendering such Physical Note for registration of transfer or exchange, together with any endorsements or instruments of transfer required by any of the Company, the Trustee or the Registrar, at any office or agency maintained by the Company for such purposes pursuant to Section 4.02; (B) if such Physical Note is a Restricted Note, delivering any documentation required by Section 2.14; (C) satisfying all other requirements for such transfer set forth in this Section 2.09 and Section 2.14; (D) providing written instructions to the Trustee to make, or to direct the Registrar to make, an adjustment in its books and records with respect to the applicable Global Note to reflect an increase in the aggregate principal amount of the Notes represented by such Global Note, which instructions will contain information regarding the Depositary account to be credited with such increase and (E) complying with the Applicable Procedures to effect such transfer or exchange. Upon the satisfaction of conditions (A), (B), (C), (D) and (E) of the immediately preceding sentence, the Trustee will cancel such Physical Note in accordance with its customary procedures and cause, in accordance with the Applicable Procedures, the aggregate principal amount of Notes represented by such Global Note to be increased by the aggregate principal amount of such Physical Note, and will credit or cause to be credited the account of the Person specified in the instructions provided by the exchanging Holder in an amount equal to the aggregate principal amount of such Physical Note. If no Global Notes are then Outstanding, the Company, in accordance with Section 2.04, will promptly execute and deliver to the Trustee, and the Trustee, upon receipt of a Company Order and in accordance with Section 2.04, will authenticate, a new Global Note in the appropriate aggregate principal amount.

**Section 2.10 Purchase of Notes; Cancellation.**

The Company may, to the extent permitted by law, and directly or indirectly (regardless of whether such Notes are surrendered to the Company), purchase Notes in the open market or by tender offer at any price or by private agreement. The Company will cause any Notes so purchased (other than Notes purchased pursuant to cash-settled swaps or other cash-settled derivatives) to be surrendered to the Trustee for cancellation. For the avoidance of doubt, any such Notes purchased by the Company will be retired and no longer Outstanding hereunder.

The Company shall deliver to the Trustee for cancellation any Notes previously authenticated and delivered hereunder that the Company may have acquired in any manner whatsoever, and may deliver to the Trustee for cancellation any Notes previously authenticated hereunder which the Company has not issued and sold. Upon written request of the Company, the Trustee shall promptly cancel all Notes surrendered for registration of transfer, exchange, payment, purchase, repurchase, conversion or cancellation in accordance with its customary procedures and the Applicable Procedures (if applicable). If the Company shall acquire any of the Notes in any manner whatsoever, such acquisition shall not operate as a redemption or satisfaction of the indebtedness represented by such Notes unless and until the same are delivered to the Trustee for cancellation. The Notes so acquired, while held by or on behalf of the Company or any of its Subsidiaries, shall not entitle the Holder thereof to convert the Notes. The Company may not issue new Notes to replace Notes it has paid in full or delivered to the Trustee for cancellation.

The Registrar shall retain, in accordance with its customary procedures, copies of all letters, notices and other written communications received pursuant to this Section 2.10. The Company shall have the right to inspect and make copies of all such letters, notices or other written communications at any reasonable time upon the giving of reasonable written notice to the Registrar.

### **Section 2.11 CUSIP Numbers.**

In issuing the Notes, the Company may use “CUSIP” numbers (if then generally in use); *provided* that the Trustee shall have no liability for any defect in the CUSIP numbers as they appear on any Notes, notice, or elsewhere and any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Notes or as contained in any notice. The Company will promptly notify the Trustee in writing of any change in the “CUSIP” numbers.

### **Section 2.12 Payment and Computation of Interest.**

The Notes will bear interest at a rate of 7.50% per annum until the Maturity Date, unless earlier purchased or converted in accordance with the provisions herein. Interest on the Notes will accrue from the most recent date on which interest has been paid or duly provided for or, if no interest has been paid or duly provided for, the date of original issuance of such Notes. Interest will be paid to the Person in whose name a Note is registered at the Close of Business on the Regular Record Date immediately preceding the relevant Interest Payment Date semi-annually in arrears on each Interest Payment Date in connection with such semi-annual interest payment (or, in the case of an Interest Payment Date in connection with a voluntary conversion, the Holder converting its Notes or having its Notes redeemed, as applicable). Interest on the Notes shall be computed on the basis of a 360-day year composed of twelve 30-day months and, for partial months, on the basis of the number of days actually elapsed in a 30-day month.

Notwithstanding the foregoing, if the Conversion Date of a Note is after a Regular Record Date and before the next Interest Payment Date, then (i) the Holder of such Note at the Close of Business on such Regular Record Date will be entitled, notwithstanding such conversion (and, for the avoidance of doubt, notwithstanding anything set forth in the proviso to this sentence), to receive, on or, at the Company’s election, before such Interest Payment Date, the unpaid interest that would have accrued on such Note to, but excluding, such Interest Payment Date (assuming, solely for these purposes, that such Note remained outstanding through such Interest Payment Date); and (ii) the Holder surrendering such Note for conversion must deliver to the Conversion Agent, at the time of such surrender, an amount of cash equal to the amount of such interest referred to in clause (i) above; *provided, however*, that the Holder surrendering such Note for conversion need not deliver such cash (v) if such Conversion Date occurs after the Regular Record Date immediately before the Maturity Date; (w) if the Company has specified a Fundamental Change Repurchase Date that is after such Regular Record Date and on or before the Business Day immediately after such Interest Payment Date; (x) if the Company has issued a Redemption Notice specifying a redemption date that is after a Regular Record Date and on or before the Business Day immediately after such Interest Payment Date; (y) to the extent of any Additional Interest, overdue interest or interest that has accrued on any overdue interest, or (z) under the circumstances described in Section 3.07. For the avoidance of doubt, as a result of, and without limiting the generality of, the foregoing, if a Note is converted with a Conversion Date that is after the Regular Record Date immediately before the Maturity Date, then the Company will pay, as provided above, the interest that would have accrued on such Note to, but excluding, the Maturity Date. For the avoidance of doubt, if the Conversion Date of a Note to be converted is on an Interest Payment Date, then the Holder of such Note at the Close of Business on the Regular Record Date immediately before such Interest Payment Date will be entitled to receive, on such Interest Payment Date, the unpaid interest that has accrued on such Note to, but excluding, such Interest Payment Date, and such Note, when surrendered for conversion, need not be accompanied by any cash amount pursuant to the first sentence of this paragraph.

Unless the context otherwise requires, payments of the Fundamental Change Repurchase Price, principal and interest on any Note, in each case, that are not made when due will accrue interest per annum at the then-applicable interest rate from the required payment date.

The Company will pay Additional Interest under certain circumstances as provided in Section 5.03.

Each payment (including any payment made in connection with a repurchase upon a Fundamental Change) in cash by the Company on account of the principal of and interest on and premium, if any on the Notes, shall be applied to the applicable Notes pro rata according to the outstanding principal amount (subject to any adjustment needed to maintain the minimum denominations of the Notes). Except as expressly provided herein, all payments (including any payment made in connection with a repurchase upon a Fundamental Change) to be made by the Company on account of principal, interest, premium, if any, and fees shall be made without set off or counterclaim and all payments made in cash shall be made to the Trustee, in each case on or prior to 10:00 a.m., New York time, in U.S. Dollars and in immediately available funds.

### **Section 2.13 Method of Payment of Interest.**

Other than in connection with a conversion pursuant to Article 3 below or as set forth in this Section 2.13, the Company shall pay all interest (including, for the avoidance of doubt, Additional Interest) due on the Notes in cash on the then outstanding principal amount of the Notes. Notwithstanding anything contrary in this Indenture, at the Company’s election, all interest (including, for the avoidance of doubt, Additional Interest) due on the Notes on any Interest Payment Date may be paid in shares of Common Stock rather than cash (“**Stock Interest**”). The Company shall provide Holders written notice (with a copy to the Trustee) of the Company’s election to issue Stock Interest in lieu of cash interest with respect to any Interest Payment Date no later than 30 days prior to the applicable Interest Payment Date. In the absence of a timely notice of Stock Interest, the interest due on the applicable Interest Payment Date shall be paid exclusively in cash. On any Interest Payment Date in which Stock Interest shall be paid in lieu of cash interest, the Company shall issue to each Holder a number of shares of Common Stock, rounded down to the nearest whole share of Common Stock, equal to (a) the dollar amount of cash interest payable to such Holder on such Interest Payment Date divided by (b) (i) 90% multiplied by (ii) the greater of (I) the average Daily VWAP for the five consecutive VWAP Trading Days ending on the VWAP Trading Day which is three (3) VWAP Trading Days immediately preceding the applicable Interest Payment Date and (II) the Reset Floor. In the event that (A) 90% multiplied by average Daily VWAP for the five consecutive VWAP Trading Days preceding the applicable Interest Payment Date multiplied by the number of shares of Common Stock issued pursuant to the foregoing sentence is less than (B) the dollar amount of cash interest payable to such Holder on such Interest Payment Date, then the Company shall make a cash interest payment equal to such difference. The Company will provide notice of the Stock Interest and cash interest payable to the Holders and the Trustee no less than 2 Business Days before the Interest Payment Date. Notwithstanding anything to the contrary elsewhere in this Indenture, the Company may only pay Stock Interest issued pursuant to this Section 2.13 if such Stock Interest is registered with the Commission for immediate resale on an appropriate registration statement.

### **Section 2.14 Transfer Restrictions.**

#### **(a) Restricted Notes.**

(i) Every Note (and any security issued in exchange therefor or substitution thereof) that bears, or that is required under this Section 2.14 to bear, the Restricted Notes Legend will be deemed to be a “Restricted Note”. Each Restricted Note will be subject to the restrictions on transfer set forth in this Indenture (including in the Restricted Notes Legend) and will bear a restricted CUSIP number for the Notes unless the Company notifies the Trustee in writing that such restrictions on transfer are eliminated or otherwise waived by written consent of the Company, and each Holder of a Restricted Note, by such Holder’s acceptance of such Restricted Note, will be deemed to be bound by the restrictions on transfer applicable to such Restricted Note.

(ii) No transfer of any Restricted Note will be registered by the Registrar unless the transferring Holder delivers to the Trustee a completed notice

substantially in the form of the Form of Assignment and Transfer.

(iii) Any Note (or security issued in exchange or substitution therefor) (x) as to which such restrictions on transfer shall have expired in accordance with their terms, (y) that has been transferred pursuant to a registration statement that has become effective or been declared effective under the Securities Act and that continues to be effective at the time of such transfer or (z) that has been sold pursuant to the exemption from registration provided by Rule 144 or any similar provision then in force under the Securities Act, may, upon surrender of such Note for exchange to the Registrar in accordance with the provisions of this Section 2.14(a), be exchanged for a new Note or Notes, of like tenor and aggregate principal amount, which shall not bear the Restricted Notes Legend and shall not be assigned a restricted CUSIP number. The Company shall be entitled to instruct the Custodian in writing to so surrender any Global Note as to which any of the conditions set forth in clause (x) through (z) of the immediately preceding sentence have been satisfied, and, upon such instruction, the Custodian shall so surrender such Global Note for exchange; and any new Global Note so exchanged therefor shall not bear the Restricted Notes Legend and shall not be assigned a restricted CUSIP number. The Company shall promptly notify the Trustee in writing after a registration statement, if any, with respect to the Notes or any Common Stock issued upon conversion of the Notes has been declared effective under the Securities Act.

(iv) Any Note will bear the Restricted Notes Legend if at any time the Company determines that, to comply with applicable law, such Note must bear the Restricted Notes Legend and the Company notifies the Trustee in writing.

**(b) Restricted Stock.**

(i) Every share of Common Stock that bears, or that is required under this Section 2.14 to bear, the Restricted Stock Legend will be deemed to be "Restricted Stock". Each share of Restricted Stock will be subject to the restrictions on transfer set forth in this Indenture (including in the Restricted Stock Legend) and will bear a restricted CUSIP number unless such restrictions on transfer are eliminated or otherwise waived by written consent of the Company, and each Holder of Restricted Stock, by such Holder's acceptance of Restricted Stock, will be deemed to be bound by the restrictions on transfer applicable to such Restricted Stock.

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(ii) Any such Common Stock (i) as to which such restrictions on transfer shall have expired in accordance with their terms, (ii) that has been transferred pursuant to a registration statement that has become or been declared effective under the Securities Act and that continues to be effective at the time of such transfer or (iii) that has been sold pursuant to the exemption from registration provided by Rule 144 or any similar provision then in force under the Securities Act, may, upon surrender of the certificates representing such shares of Common Stock for exchange in accordance with the procedures of the transfer agent for the Common Stock, be exchanged for a new certificate or certificates for a like aggregate number of shares of Common Stock, which shall not bear the Restricted Stock Legend.

(iii) Shares of Common Stock will be issued in book-entry form and will bear the Restricted Stock Legend at any time the Company reasonably determines that, to comply with applicable law, such shares of Common Stock must bear the Restricted Stock Legend.

(c) As used in this Section 2.14, the term "transfer" means any sale, pledge, transfer, loan, hypothecation or other disposition whatsoever of any Restricted Note, any interest therein or any Restricted Stock.

(d) All Notes, whether Global Notes or Physical Notes, are required to bear the Non-Affiliate Legend at all times.

**Section 2.15 Expiration of Restrictions.**

Any Physical Note (or any security issued in exchange or substitution therefor) that does not have a Restricted Notes Legend may be exchanged for a new Note or Notes of like tenor and aggregate principal amount that do not bear the Restricted Notes Legend required by Section 2.14. To exercise such right of exchange, the Holder of such Note must surrender such Note in accordance with the provisions of Section 2.09 and deliver any additional documentation required by this Indenture in connection with such exchange.

**Section 2.16 Removal of Transfer Restrictions.**

The Restricted Notes Legend affixed to any Note will be deemed, pursuant to this Section 2.16 and the footnote to such Restricted Notes Legend, to be removed therefrom upon the Company's delivery to the Trustee of notice, signed on behalf of the Company by one (1) of its Officers, to such effect (and, for the avoidance of doubt, such notice need not be accompanied by an Officer's Certificate or an Opinion of Counsel in order to be effective to cause such Restricted Notes Legend to be deemed to be removed from such Note). If such Note bears a "restricted" CUSIP or ISIN number at the time of such delivery, then, upon such delivery, such Note will be deemed, pursuant to this Section 2.16 and the footnotes to the CUSIP and ISIN numbers set forth on the face of the certificate representing such Note, to thereafter bear the "unrestricted" CUSIP and ISIN numbers identified in such footnotes; provided, however, that if such Note is a Global Note and the Depositary thereof requires a mandatory exchange or other procedure to cause such Global Note to be identified by "unrestricted" CUSIP and ISIN numbers in the facilities of such Depositary, then (i) the Company will effect such exchange or procedure as soon as reasonably practicable; and (ii) for purposes of the definition of Freely Tradable, such Global Note will not be deemed to be identified by "unrestricted" CUSIP and ISIN numbers until such time as such exchange or procedure is effected. The Company shall cause such notice to be delivered and if applicable, effect such exchange or procedure no later than the De-Legending Deadline Date.

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**ARTICLE 3  
CONVERSION**

**Section 3.01 Right to Convert.**

(a) Subject to and upon compliance with the provisions of this Indenture, each Holder shall have the right, at such Holder's option, to convert all or any portion of its Notes plus accrued and unpaid interest on such Notes to, but excluding, the Conversion Date (if a portion, such that the principal amount of such Notes to be converted, plus accrued and unpaid interest on such Notes to, but excluding the Conversion Date, equals \$1,000.00 or an integral multiple of \$1,000.00) at the Conversion Rate into the Settlement Amount determined in accordance with Section 3.03(a)(ii) at any time until the Close of Business on the second Business Day immediately preceding the stated Maturity Date; *provided* that the portion of the principal amount of a Holder's Notes, plus all accrued and unpaid interest on such Notes to, but excluding the Conversion Date, to be converted must be such that the principal amount of the Notes not converted equals \$1,000.00 or an integral multiple of \$1,000.00.

(b) (i) If the Company elects to issue or distribute, as the case may be, to all or substantially all holders of the Common Stock (x) any rights, options or warrants entitling them to subscribe for or purchase, for a period expiring within 45 calendar days after the declaration date for such issuance, shares of the Common Stock, at a price per share that is less than the average of the Closing Sale Prices of the Common Stock for the 10 consecutive Trading-Day period ending on, and including, the Trading Day immediately preceding the declaration date for such issuance; or (y) cash, debt securities (or other evidence of indebtedness) or other assets or securities (excluding dividends or distributions in respect of which an adjustment to the Conversion Rate is made pursuant to Section 3.04(a)), which distribution has a per share value exceeding 10% of the Closing Sale Price of the Common Stock as of the Trading Day immediately preceding the declaration date for such distribution, then, in either case, the Company must deliver notice of

such distribution, and of the Ex-Dividend Date for such distribution, to the Holders (with a copy to the Trustee and Conversion Agent) at least 30 Scheduled Trading Days prior to the Ex-Dividend Date for such distribution.

(ii) If a transaction or event that constitutes a Fundamental Change occurs, to the extent practicable, the Company shall give notice to Holders (with a copy to the Trustee and Conversion Agent) of the anticipated effective date for such transaction or event not more than 50 Scheduled Trading Days nor less than 30 Scheduled Trading Days prior to the anticipated effective date or, if the Company does not have knowledge of such transaction or event at least 30 Scheduled Trading Days prior to the anticipated effective date, within two Business Days of the date upon which the Company receives notice, or otherwise becomes aware of such transaction or event (but in no event later than the actual effective date of such transaction or event). Neither the Trustee nor the Conversion Agent shall have any obligation (x) to determine whether the condition described in this Section 3.01(b)(ii) has occurred or (y) to verify the Company's determination regarding such condition.

(iii) If the Company is a party to a consolidation, merger or binding share exchange or a sale, assignment, conveyance, transfer, lease or other disposition of all or substantially all of the Company's property and assets that does not also constitute a Fundamental Change, in each case pursuant to which the Common Stock would be converted into cash, securities or other property, the Company shall notify Holders (with a copy to the Trustee and Conversion Agent) at least 30 Scheduled Trading Days prior to the anticipated effective date of such transaction. Neither the Trustee nor the Conversion Agent shall have any obligation (x) to determine whether the condition described in this Section 3.01(b)(iii) has occurred or (y) to verify the Company's determination regarding such condition. For the avoidance of doubt, any references to Common Stock described in this Section 3.01, including those in Section 3.01(c), shall give effect to, among other things, the provisions of Section 3.07.

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(c) Notwithstanding anything herein to the contrary:

(i) The Company shall not effect any conversion of a Note to Common Stock to the extent that, after giving effect to such conversion, ownership of shares of Common Stock owned by the Holder, or such Holder together with such Holder's Affiliates, and any Persons acting as a group together with such Holder or any of such Holder's Affiliates (any such person other than Holder, including any group of which Holder is a member, an "Additional Restricted Ownership Person"), would beneficially own in excess of the Restricted Ownership Percentage (as defined below). For purposes of the foregoing sentence, the number of shares of Common Stock beneficially owned by such Holder and any Additional Restricted Ownership Person shall include the number of shares of Common Stock issuable upon conversion of the sum of the principal amount of Notes plus accrued and unpaid interest on such Notes to, but excluding the Conversion Date with respect to which such determination is being made, but shall exclude the number of shares of Common Stock which are issuable upon (i) conversion of the remaining, unconverted principal amount of Notes plus accrued and unpaid interest thereon or any Additional Restricted Ownership Person and (ii) exercise or conversion of the unexercised or unconverted portion of any other securities of the Company subject to a limitation on conversion or exercise analogous to the limitation contained herein beneficially owned by such Holder or any Additional Restricted Ownership Person. Except as set forth in the preceding sentence, for purposes of this Section 3.01(c), beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder.

(ii) To the extent that the limitation contained in this Section 3.01(c)(i) applies, the determination of whether the Notes are convertible (in relation to other securities owned by such Holder together with any Additional Restricted Ownership Person) and of how much principal amount of Notes (plus accrued and unpaid interest on such Notes to, but excluding the Conversion Date) are convertible shall be in the sole discretion of such Holder, and the submission of a Conversion Notice shall be deemed to be such Holder's determination of whether the applicable Notes may be converted (in relation to other securities owned by such Holder together with any Additional Restricted Ownership Person) and how much principal amount of Notes (plus accrued and unpaid interest on such Notes to, but excluding the Conversion Date) are convertible, in each case, subject to the Restricted Ownership Percentage. To ensure compliance with this restriction and except as provided in the immediately following sentence, each Holder will be deemed to represent to the Company each time it delivers a Conversion Notice that, to its knowledge, such Conversion Notice has not violated the restrictions set forth in this paragraph and neither the Trustee nor the Conversion Agent shall have any obligation to verify or confirm the accuracy of such determination. In addition, a determination as to any group status as contemplated above shall be determined in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder. For purposes of this Section 3.01(c), in determining the number of outstanding shares of Common Stock, a Holder may rely on the number of outstanding shares of Common Stock as stated in the most recent of the following: (i) the Company's most recent periodic or annual report filed with the Commission, as the case may be, (ii) a more recent public announcement by the Company or (iii) a more recent written notice by the Company or the transfer agent for the Company's Common Stock setting forth the number of shares of Common Stock outstanding. Upon the written or oral request of a Holder, the Company shall within two Trading Days confirm orally and in writing to such Holder the number of shares of Common Stock then outstanding. In any case, the number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Company, including the Notes, by such Holder or its Additional Restricted Ownership Persons since the date as of which such number of outstanding shares of Common Stock was reported. Notwithstanding anything to the contrary in this Section 3.01(c), a Holder may submit a Conversion Notice with respect to a principal amount of Notes that, if settled solely in shares of Common Stock pursuant to Section 3.03(a), would result in such Holder, together with any Additional Restricted Ownership Person, beneficially owning shares of Common Stock in excess of the Restricted Ownership Percentage; provided that (A) such Conversion Notice prominently discloses on its face the principal amount of Notes (and the corresponding number of shares of Common Stock) that the Holder has determined cannot be settled in shares of Common Stock without exceeding the Restricted Ownership Percentage (the "Excess Conversion Amount"), (B) such Conversion Notice constitutes an irrevocable offer by the Holder to convert the Excess Conversion Amount on the condition, and only on the condition, that the Company elect, in its sole and absolute discretion, to settle the Excess Conversion Amount solely in cash pursuant to Section 3.03(c), and (C) the Company shall have the right, in its sole and absolute discretion and for any reason or no reason, to reject the Conversion Notice with respect to the Excess Conversion Amount by written notice to such Holder, the Trustee and the Conversion Agent delivered within five (5) Business Days after receipt of such Conversion Notice, in which case (1) the Conversion Notice shall be deemed automatically withdrawn solely with respect to the Excess Conversion Amount (and shall remain in full force and effect with respect to the balance, if any, of the principal amount of Notes specified therein that is convertible without exceeding the Restricted Ownership Percentage assuming physical settlement) and (2) no Conversion Date shall be deemed to have occurred with respect to such Excess Conversion Amount. Any Conversion Notice submitted in accordance with the immediately preceding sentence shall not be deemed to violate the restrictions set forth in this Section 3.01(c), and the deemed representation set forth in the second sentence of this Section 3.01(c)(ii) shall not apply with respect to the Excess Conversion Amount. In addition, a determination as to any group status as contemplated above shall be determined in accordance with Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder. For purposes of this Section 3.01(c), in determining the number of outstanding shares of Common Stock, a Holder may rely on the number of outstanding shares of Common Stock as stated in the most recent of the following: (i) the Company's most recent periodic or annual report filed with the Commission, as the case may be, (ii) a more recent public announcement by the Company or (iii) a more recent written notice by the Company or the transfer agent for the Company's Common Stock setting forth the number of shares of Common Stock outstanding. Upon the written or oral request of a Holder, the Company shall within two Trading Days confirm orally and in writing to such Holder the number of shares of Common Stock then outstanding. In any case, the number of outstanding shares of Common Stock shall be determined after giving effect to the conversion or exercise of securities of the Company, including the Notes, by such Holder or its Additional Restricted Ownership Persons since the date as of which such number of outstanding shares of Common Stock was reported.

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(iii) The "Restricted Ownership Percentage" for each Holder shall initially be 4.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock issuable upon conversion of Notes held by the applicable Holder. A Holder may (i) increase the Restricted Ownership Percentage applicable to its Notes upon not less than 61 days' prior written notice to the Company, or (ii) decrease the Restricted Ownership Percentage applicable to its Notes effective immediately upon written notice to the Company; *provided, however*, that (x) no Holder shall be entitled to effect any increase in the Restricted Ownership Percentage applicable to its Notes if such Holder or any Additional Restricted Ownership Person has acquired beneficial ownership of Notes or any other securities of the Company subject to a limitation on conversion or exercise analogous to the limitation contained herein with the purpose or effect of

changing or influencing the control of the Company and (y) (A) in the event the Restricted Ownership Percentage in effect is 4.99%, the Restricted Ownership Percentage shall in no event exceed 9.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock issuable upon conversion of Notes held by the applicable Holder; and (B) in the event the Restricted Ownership Percentage in effect is 9.99%, the Restricted Ownership Percentage shall in no event exceed 19.99% of the number of shares of the Common Stock outstanding immediately after giving effect to the issuance of shares of Common Stock issuable upon conversion of Notes held by the applicable Holder. Any such increase will not be effective until the 61<sup>st</sup> day after such notice is delivered to the Company and any such increase or decrease shall only apply to such Holder and no other Holder.

(iv) Neither the Trustee nor the Conversion Agent shall have any obligation to monitor the ownership percentage (as to a particular Person or as to all Persons).

### **Section 3.02 Conversion Procedures.**

(a) Each Physical Note shall be convertible at the office of the Conversion Agent and, if applicable, Global Notes shall be convertible in accordance with the Applicable Procedures.

(b) To exercise the conversion privilege with respect to a beneficial interest in a Global Note, the Holder must comply with the Applicable Procedures for converting a beneficial interest on a Global Note and pay any taxes or duties if required pursuant to Section 3.02(f), and the Conversion Agent must be informed of the conversion in accordance with the customary practice of the Depository.

To exercise the conversion privilege with respect to any Physical Notes, the Holder of such Physical Notes shall:

(i) duly sign and complete a conversion notice in the form set forth in the Form of Notice of Conversion (the “**Conversion Notice**”) or a facsimile of the Conversion Notice;

(ii) deliver the Conversion Notice, which is irrevocable, and the Note to the Conversion Agent;

(iii) if required, furnish appropriate endorsements and transfer documents; and

(iv) if required, pay all transfer or similar taxes as set forth in Section 4.02(f).

(v) Subject to Section 2.12, if the Conversion Notice is being delivered on a date after the Close of Business on a Regular Record Date and prior to the Open of Business on the Interest Payment Date corresponding to such Regular Record Date, the Conversion Notice must be accompanied by payment of an amount equal to the interest payable on such Interest Payment Date on the principal amount of the Note to be converted.

If, upon conversion of a Note, any shares of Common Stock are to be issued to a Person other than the Holder of such Note, the related Conversion Notice shall include such other Person’s name and address.

If a Note has been submitted for repurchase pursuant to a Fundamental Change Repurchase Notice, such Note may not be converted except to the extent such Note has been withdrawn by the Holder and is no longer submitted for repurchase pursuant to a Fundamental Change Repurchase Notice or unless such Fundamental Change Repurchase Notice is withdrawn in accordance with Section 11.02.

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For any Note, the date on which the Holder of such Note satisfies all of the applicable requirements set forth above with respect to such Note shall be the “**Conversion Date**” with respect to such Note.

Each conversion shall be deemed to have been effected as to any such Notes (or portion thereof) surrendered for conversion immediately prior to the Close of Business on the applicable Conversion Date; *provided, however*, that except to the extent required by Section 3.04, the person in whose name any shares of Common Stock shall be issuable upon conversion shall be treated as a stockholder of record as of the Close of Business on the Conversion Date. For the avoidance of doubt, subject to the satisfaction by the Company of each of its obligations in connection with such conversion and any other conditions set forth in this Indenture, at the Close of Business on the Conversion Date for such conversion, the applicable Holder shall no longer be the Holder of the Notes so converted.

(c) *Endorsement.* Any Notes surrendered for conversion shall, unless shares of Common Stock issuable on conversion are to be issued in the same name as the registration of such Notes, be duly endorsed by, or be accompanied by instruments of transfer in form satisfactory to the Company duly executed by, the Holder or its duly authorized attorney.

(d) *Physical Notes.* If any Physical Notes in a denomination greater than \$1,000.00 shall be surrendered for partial conversion, the Company shall execute and the Trustee shall authenticate and deliver to the Holder of the Physical Notes so surrendered, without charge, new Physical Notes in authorized denominations in an aggregate principal amount equal to the unconverted portion of the surrendered Physical Notes.

(e) *Global Notes.* Upon the conversion of a beneficial interest in Global Notes, the Conversion Agent shall make a notation in its records as to the reduction in the principal amount represented thereby. The Company shall notify the Trustee in writing of any conversions of Notes effected through any Conversion Agent other than the Trustee.

(f) *Taxes Due upon Conversion.* If a Note is converted, the Company will pay any documentary, stamp or similar issue or transfer tax due on the issue of any shares of the Common Stock upon the conversion, unless the tax is due because the Holder requests that any shares be issued in a name other than the Holder’s name, in which case the Holder will pay that tax.

### **Section 3.03 Settlement Upon Conversion.**

(a) *Settlement.* Subject to this Section 3.03 and Sections 3.01(c), 3.06 and 3.07, upon conversion of any Note, the Company shall deliver to Holders, in full satisfaction of its conversion obligation under Section 3.01, in respect of each \$1,000 of the sum of the principal amount of Notes plus accrued and unpaid interest on such Notes to, but excluding the Conversion Date being converted, a Settlement Amount consisting solely of shares of Common Stock (together with cash in lieu of any fractional share of Common Stock pursuant to Section 3.03(b)).

(i) *Settlement Amount.* The shares of Common Stock in respect of any conversion of Notes (the “**Settlement Amount**”) shall be computed as follows: the Company shall deliver to the Holder of the Notes so converting, in respect of each \$1,000 of the sum of the principal amount of its Notes, a number of shares of Common Stock equal to the applicable Conversion Rate, together with cash in lieu of any fractional shares of Common Stock pursuant to Section 3.03(b).

(ii) *Delivery Obligation.* The Settlement Amounts upon conversion of the Notes will be delivered by the Company through the Company’s stock transfer agent, in the case of Common Stock or the Conversion Agent, in the case of cash. The Company shall pay or deliver the Settlement Amount due in respect of its conversion obligation under this Section 3.03, on the second Trading Day immediately following the relevant Conversion Date; *provided, however*, that if prior to the

Conversion Date for any converted Notes, the Common Stock has been replaced by Reference Property consisting solely of cash, the Company will pay the conversion consideration due in respect of such conversion on the third Trading Day immediately following the related Conversion Date.

(b) *Fractional Shares.* Notwithstanding the foregoing, the Company will not issue fractional shares of Common Stock as part of the Settlement Amount due with respect to any converted Note. Instead, if any Settlement Amount includes a fraction of a share of the Common Stock, the Company will, in lieu of delivering such fraction of a share of Common Stock, pay an amount of cash equal to the product of such fraction of a share and the Daily VWAP on the relevant Conversion Date, or if such Conversion Date is not a VWAP Trading Day, the immediately preceding VWAP Trading Day.

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(c) *Settlement in Cash Upon Certain Events.* Notwithstanding anything to the contrary in this Section 3.03, in the event that physical settlement of the Settlement Amount in shares of Common Stock is not practicable due to (i) a Market Disruption Event or VWAP Market Disruption Event that is continuing for more than five consecutive Scheduled Trading Days, (ii) any applicable law, regulation, order or directive of any Governmental Authority that prohibits or restricts the issuance or delivery of such shares, or (iii) the unavailability of a sufficient number of authorized but unissued shares of Common Stock (after giving effect to the Company's obligations under Section 3.09(a)), the Company shall, in lieu of delivering shares of Common Stock, pay to the converting Holder, on the third Business Day following the applicable Conversion Date, cash in an amount equal to the Conversion Value as of the Conversion Date (or, if the Conversion Date is not a VWAP Trading Day, as of the immediately preceding VWAP Trading Day). The Company's obligation to pay cash pursuant to this paragraph shall not relieve the Company of its obligation to reserve shares of Common Stock pursuant to Section 3.09(a) or limit any remedies available to the Holders in respect of any breach of such obligation.

(d) *Conversion of Multiple Notes by a Single Holder.* If a Holder surrenders more than one Note for conversion on a single Conversion Date, the Company will calculate the amount of cash and the number of shares of Common Stock due with respect to such Notes as if such Holder had surrendered for conversion one Note having an aggregate principal amount equal to the sum of the principal amounts of each of the Notes surrendered for conversion by such Holder on such Conversion Date or, if the Notes surrendered for conversion are beneficial interests in a Global Note, based on such other aggregate number of Notes, or beneficial interests therein, being surrendered by the Holder for conversion on the same date as the Depositary may otherwise request.

(e) *Settlement of Accrued Interest and Deemed Payment of Principal.* If a Note is converted, the Company will not adjust the Conversion Rate to account for any accrued and unpaid interest on such Note, and the Company's delivery of shares of Common Stock into which a Note is convertible must be in an amount of shares of Common Stock (plus cash in lieu of fractional shares of Common Stock) necessary to satisfy and discharge in full the Company's obligation to pay the principal of, and accrued and unpaid interest, if any, on such Note to, but excluding, the Conversion Date. As a result, any accrued and unpaid interest with respect to a converted Note paid with shares of Common Stock (and cash in lieu of fractional shares of Common Stock) as required by this Article 3, will be deemed to be paid in full rather than cancelled, extinguished or forfeited to the extent shares of Common Stock are delivered in the amount of such accrued and unpaid interest (plus cash for fractional shares of Common Stock). The Company's delivery of the Settlement Amount due in respect of such conversion will be deemed to fully satisfy and discharge the Company's obligation to pay the principal of, and accrued and unpaid interest, if any, on, such Note to, but excluding the Conversion Date.

(f) *Notices.* Whenever a Conversion Date occurs with respect to a Note, the Conversion Agent will, as promptly as possible, and in no event later than the Business Day immediately following such Conversion Date, deliver to the Company and the Trustee, if it is not then the Conversion Agent, written notice that a Conversion Date has occurred, which notice will state such Conversion Date, the principal amount of Notes, accrued and unpaid interest converted on such Conversion Date and the names of the Holders that converted Notes on such Conversion Date.

#### **Section 3.04 Adjustment of Conversion Rate.**

The Conversion Rate will be adjusted as described in this Section 3.04, except that no adjustment to the Conversion Rate will be made for a given transaction if Holders of the Notes will participate in that transaction, without conversion of the Notes, on the same terms and at the same time as a holder of a number of shares of Common Stock equal to the principal amount of a Holder's Notes divided by \$1,000 and multiplied by the Conversion Rate would participate.

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(a) If the Company issues solely shares of Common Stock as a dividend or distribution on all or substantially all shares of the Common Stock, or if the Company subdivides or combines the Common Stock, the Conversion Rate will be adjusted based on the following formula:

$$CR = CR_0 \times \frac{OS}{OS_0}$$

where,

CR = the Conversion Rate in effect immediately prior to the Open of Business on such Ex-Dividend Date of such dividend or distribution, or immediately prior to the Open of Business on the effective date of such share split or combination, as applicable;

CR<sub>0</sub> = the Conversion Rate in effect immediately after the Open of Business on the Ex-Dividend Date of such dividend or distribution, or immediately after the Open of Business on the effective date of such share split or combination, as applicable;

OS = the number of shares of Common Stock outstanding immediately prior to the Open of Business on such Ex-Dividend Date of such dividend or distribution, or immediately prior to the Open of Business on the effective date of such share split or combination, as applicable; and

OS<sub>0</sub> = the number of shares of Common Stock outstanding immediately after giving effect to such dividend or distribution, or immediately after the effective date of such subdivision or combination of Common Stock, as the case may be.

Any adjustment made under this clause (a) will become effective immediately after the Open of Business on the Ex-Dividend Date for such dividend or distribution (regardless of whether the dividend or distribution date is scheduled to occur after the Maturity Date), or immediately after the Open of Business on the effective date of such subdivision or combination of Common Stock, as the case may be. If such dividend, distribution, subdivision or combination described in this clause (a) is declared but not so paid or made, the Conversion Rate shall be immediately readjusted, effective as of the date the Board of Directors or a duly authorized committee thereof determines not to pay such dividend or distribution or to effect such subdivision or combination, to the Conversion Rate that would then be in effect if such dividend or distribution had not been declared or subdivision or combination had not been announced.

(b) If an Ex-Dividend Date occurs for a distribution to all or substantially all holders of the Common Stock any rights, options or warrants entitling them, for a period of not more than 45 calendar days from the announcement date for such distribution, to subscribe for or purchase shares of the Common Stock, at a price per share less than the average of the Closing Sale Prices of the Common Stock for the 10 consecutive Trading-Day period ending on, and including, the Trading Day immediately preceding the announcement date for such distribution, the Conversion Rate will be increased based on the following formula:

$$CR = CR_0 \times \frac{OS_0 + X}{OS_0 + Y}$$

where,

CR = the Conversion Rate in effect immediately after the Open of Business on such Ex-Dividend Date for such distribution;

CR<sub>0</sub> = the Conversion Rate in effect immediately prior to the Open of Business on the Ex-Dividend Date for such distribution;

OS<sub>0</sub> = the number of shares of Common Stock outstanding immediately prior to the Open of Business on such Ex-Dividend Date for such distribution;

X = the total number of shares of Common Stock issuable pursuant to such rights, options or warrants; and

Y = the number of shares of Common Stock equal to the aggregate price payable to exercise such rights, options or warrants *divided by* the average of the Closing Sale Prices of the Common Stock over the 10 consecutive Trading-Day period ending on, and including, the Trading Day immediately preceding the announcement date for such distribution.

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Any increase made under this clause (b) will be made successively whenever any such rights, options or warrants are issued and will become effective immediately after the Open of Business on the Ex-Dividend Date for such distribution, regardless of whether the distribution date is scheduled to occur after the Maturity Date. To the extent that such rights, options or warrants expire prior to the Maturity Date and shares of Common Stock are not delivered after the expiration of such rights, options or warrants, the Conversion Rate shall be decreased to the Conversion Rate that would then be in effect had the increase with respect to the issuance of such rights, options or warrants been made on the basis of delivery of only the number of shares of Common Stock actually delivered. If such rights, options or warrants were scheduled to be distributed prior to the Maturity Date and are not so distributed, the Conversion Rate shall be decreased to the Conversion Rate that would then be in effect if the Ex-Dividend Date for such distribution had not occurred.

For purposes of this Section 3.04(b) and Section 3.01(b)(i), in determining whether any rights, options or warrants entitle the holders to subscribe for or purchase shares of Common Stock at a price that is less than the average of the Closing Sale Prices of the Common Stock for each Trading Day in the applicable 10 consecutive Trading-Day period, there shall be taken into account any consideration the Company receives for such rights, options or warrants and any amount payable on exercise thereof, with the value of such consideration, if other than cash, to be determined in good faith by the Board of Directors or a duly authorized committee thereof.

(c) If an Ex-Dividend Date occurs for a distribution (the “**Relevant Distribution**”) of shares of the Company’s Capital Stock, evidences of the Company’s indebtedness or other assets or property of the Company’s or rights, options or warrants to acquire the Company’s Capital Stock or other securities, to all or substantially all holders of Common Stock (excluding (i) dividends or distributions and rights, options or warrants as to which an equitable adjustment was effected under clause (a) or (b) above; (ii) dividends or distributions paid exclusively in cash; and (iii) Spin-Offs, then the Conversion Rate will be increased based on the following formula:

$$CR = CR_0 \times \frac{SP_0}{SP_0 - FMV}$$

where,

CR = the Conversion Rate in effect immediately after the Open of Business on such Ex-Dividend Date for such distribution;

CR<sub>0</sub> = the Conversion Rate in effect immediately prior to the Open of Business on the Ex-Dividend Date for such distribution;

SP<sub>0</sub> = the average of the Closing Sale Prices of the Common Stock over the 10 consecutive Trading Day-period ending on, and including, the Trading Day immediately preceding the Ex-Dividend Date for such distribution; and

FMV = the fair market value (as determined in good faith by the Board of Directors or a duly authorized committee thereof) of the shares of Capital Stock, evidences of indebtedness, assets or property or rights, options or warrants distributed with respect to each outstanding share of Common Stock as of the Open of Business on the Ex-Dividend Date for such distribution.

Any increase made under the above portion of this clause (c) will become effective immediately after the Open of Business on the Ex-Dividend Date for such distribution. No adjustment pursuant to the above formula will result in a decrease of the Conversion Rate. However, if such distribution is scheduled to be paid or made prior to the Maturity Date and is not so paid or made, the Conversion Rate shall be decreased to be the Conversion Rate that would then be in effect if such distribution had not been declared. Notwithstanding the foregoing, if “FMV” (as defined above) is equal to or greater than “SP<sub>0</sub>” (as defined above), in lieu of the foregoing increase, each Holder of a Note shall receive, in respect of each \$1,000 of the sum of the principal amount thereof plus accrued and unpaid interest on such Note, at the same time and upon the same terms as holders of the Common Stock, without having to convert its Notes, the amount and kind of the Relevant Distribution that such Holder would have received if such Holder owned a number of shares of Common Stock equal to the Conversion Rate in effect on the Ex-Dividend Date for the distribution.

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With respect to an adjustment pursuant to this clause (c) where there has been an Ex-Dividend Date for a dividend or other distribution on the Common Stock of shares of Capital Stock of any class or series, or similar equity interest, of or relating to a subsidiary or other business unit, that are, or, when issued, will be, listed or admitted for trading on a U.S. national securities exchange (a “**Spin-Off**”), the Conversion Rate will be increased based on the following formula:

$$CR = CR_0 \times \frac{FMV + MP_0}{MP_0}$$

where,

CR = the Conversion Rate in effect immediately after the Open of Business on the Ex-Dividend Date for such Spin-Off;

CR<sub>0</sub> = the Conversion Rate in effect immediately prior to the Open of Business on the Ex-Dividend Date for such Spin-Off;

FMV = the average of the Closing Sale Prices of the Capital Stock or similar equity interest distributed to holders of the Common Stock applicable to one share of the Common Stock over the first 10 consecutive Trading-Day period commencing on, and including, the Ex-Dividend Date for the Spin-Off (such period, the

“Valuation Period”); and

MP<sub>0</sub> = the average of the Closing Sale Prices of Common Stock over the Valuation Period.

The adjustment to the applicable conversion rate under the preceding paragraph of this clause (c) will be determined on the last day of the Valuation Period but will be given effect immediately after the Open of Business on the Ex-Dividend Date for the Spin-Off. In respect of any conversion during the Valuation Period for any Spin-Off, references within this clause (c) related to 10 Trading Days shall be deemed to be replaced, solely in respect of that conversion, with such lesser number of Trading Days as have elapsed from, and including, the Ex-Dividend Date for such Spin-Off to, but excluding, the relevant Conversion Date.

For purposes of the second adjustment formula set forth in this clause (c), (i) the Closing Sale Price of any Capital Stock or similar equity interest shall be calculated in a manner analogous to that used to calculate the Closing Sale Price of the Common Stock in the definition of “Closing Sale Price” set forth in Section 1.01, (ii) whether a day is a Trading Day (and whether a day is a Scheduled Trading Day and whether a Market Disruption Event has occurred) for such Capital Stock or similar equity interest shall be determined in a manner analogous to that used to determine whether a day is a Trading Day (or whether a day is a Scheduled Trading Day and whether a Market Disruption Event has occurred) for the Common Stock, and (iii) whether a day is a Trading Day to be included in a Valuation Period will be determined based on whether a day is a Trading Day for both the Common Stock and such Capital Stock or similar equity interest.

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Subject to Section 3.04(h), for the purposes of this Section 3.04(c), rights, options or warrants distributed to all or substantially all holders of the Common Stock entitling them to acquire the Company’s Capital Stock or other securities, (either initially or under certain circumstances), which rights, options or warrants, until the occurrence of a specified event or events (a “**Trigger Event**”): (1) are deemed to be transferred with such shares of Common Stock; (2) are not exercisable; and (3) are also issued in respect of future issuances of Common Stock (including, for the avoidance of doubt, upon settlement of conversions of Notes), shall be deemed not to have been distributed for purposes of this Section 3.04(c) (and no adjustment to the Conversion Rate under this Section 3.04(c) will be required) until the occurrence of the earliest Trigger Event, whereupon such rights, options or warrants shall be deemed to have been distributed and an appropriate adjustment (if any is required) to the Conversion Rate shall be made under this Section 3.04(c). If any such rights, options or warrants, distributed prior to the Issue Date are subject to events, upon the occurrence of which such rights, options or warrants become exercisable to purchase different securities, evidences of indebtedness or other assets, then the date of the occurrence of any and each such event shall be deemed to be the date of distribution and Ex-Dividend Date of such deemed distribution (in which case the original rights, options or warrants shall be deemed to terminate and expire on such date without exercise by any of the holders). In addition, in the event of any distribution or deemed distribution of rights, options or warrants, or any Trigger Event or other event (of the type described in the preceding sentence) with respect thereto that was counted for purposes of calculating a distribution amount for which an adjustment to the Conversion Rate under this Section 3.04(c) was made, (1) in the case of any such rights, options or warrants which shall all have been redeemed or purchased without exercise by any Holders thereof, upon such final redemption or purchase (x) the Conversion Rate shall be readjusted as if such rights, options or warrants had not been issued and (y) the Conversion Rate shall then again be readjusted to give effect to such distribution, deemed distribution or Trigger Event, as the case may be, as though it were a cash distribution, equal to the per share redemption or purchase price received by holders of Common Stock with respect to such rights, options or warrants (assuming each such holder had retained such rights, options or warrants), made to all holders of Common Stock as of the date of such redemption or purchase, and (2) in the case of such rights, options or warrants which shall have expired or been terminated without exercise by any holders thereof, the Conversion Rate shall be readjusted as if such rights and warrants had not been issued.

For purposes of Sections 3.04(a) through (c), if any dividend or distribution to which this Section 3.04(c) applies includes one or both of:

- (A) a dividend or distribution of shares of Common Stock to which Section 3.04(a) also applies (the “**Clause A Distribution**”); or
- (B) an issuance of rights, options or warrants entitling holders of the Common Stock to subscribe for or purchase shares of the Common Stock to which Section 3.04(b) also applies (the “**Clause B Distribution**”),

then (i) such dividend or distribution, other than the Clause A Distribution and the Clause B Distribution, shall be deemed to be a distribution to which this Section 3.04(c) applies (the “**Clause C Distribution**”) and any Conversion Rate adjustment required to be made under this Section 3.04(c) with respect to such Clause C Distribution shall be made, (ii) the Clause B Distribution, if any, shall be deemed to immediately follow the Clause C Distribution and any Conversion Rate adjustment required by Section 3.04(b) with respect thereto shall then be made, except that, if determined by the Company, (A) the “Ex-Dividend Date” of the Clause B Distribution and the Clause A Distribution, if any, shall be deemed to be the Ex-Dividend Date of the Clause C Distribution and (B) any shares of Common Stock included in the Clause A Distribution or the Clause B Distribution shall not be deemed to be “outstanding immediately prior to the Open of Business on such Ex-Dividend Date” within the meaning of Section 3.04(b), and (iii) the Clause A Distribution, if any, shall be deemed to immediately follow the Clause C Distribution or the Clause B Distribution, as the case may be, except that, if determined by the Company, (A) the “Ex-Dividend Date” of the Clause A Distribution and the Clause B Distribution, if any, shall be deemed to be the Ex-Dividend Date of the Clause C Distribution, and (B) any shares of Common Stock included in the Clause A Distribution shall not be deemed to be “outstanding immediately prior to the Open of Business on such Ex-Dividend Date or such effective date” within the meaning of Section 3.04(a).

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(d) If an Ex-Dividend Date occurs for a cash dividend or distribution to all, or substantially all, holders of the outstanding Common Stock (other than any dividend or distribution in connection with the Company’s liquidation, dissolution or winding up), the Conversion Rate will be increased based on the following formula:

$$CR = CR_0 \times \frac{SP_0}{SP_0 - C}$$

where,

CR = the Conversion Rate in effect immediately after the Open of Business on the Ex-Dividend Date for such dividend or distribution;

CR<sub>0</sub> = the Conversion Rate in effect immediately prior to the Open of Business on the Ex-Dividend Date for such dividend or distribution;

SP<sub>0</sub> = the Closing Sale Price of the Common Stock on the Trading Day immediately preceding the Ex-Dividend Date for such dividend or distribution; and

C = the amount in cash per share that the Company pays or distributes to substantially all holders of the Common Stock.

Any increase made under this clause (d) shall become effective immediately after the Open of Business on the Ex-Dividend date for such dividend or distribution. No adjustment pursuant to the above formula will result in a decrease of the Conversion Rate. However, if any dividend or distribution described in this clause (d) is scheduled to be paid or made prior to the Maturity Date but is not so paid or made, the new Conversion Rate shall be readjusted to the Conversion Rate that would then be in effect if such dividend or distribution had not been declared.

Notwithstanding the foregoing, if “C” (as defined above) is equal to or greater than “SP<sub>0</sub>” (as defined above), in lieu of the foregoing increase, each Holder of a

Note shall receive, for each \$1,000 of the sum of the principal amount of Notes plus accrued and unpaid interest on such Notes, at the same time and upon the same terms as holders of shares of the Common Stock, without having to convert its Notes, the amount of cash that such Holder would have received if such Holder owned a number of shares of Common Stock equal to the applicable Conversion Rate on the Ex-Dividend Date for such cash dividend or distribution.

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(e) If the Company or any of its Subsidiaries makes a payment in respect of a tender or exchange offer for the Common Stock, and if the cash and value of any other consideration included in the payment per share of Common Stock exceeds the average of the Closing Sale Prices of the Common Stock over the 10 consecutive Trading-Day period commencing on, and including, the Trading Day next succeeding the last date on which tenders or exchanges may be made pursuant to such tender or exchange offer (the “Offer Expiration Date”), the Conversion Rate will be increased based on the following formula:

$$CR = CR_0 \times \frac{AC + (SP \times OS)}{OS_0 \times SP}$$

where,

CR = the Conversion Rate in effect immediately after the Open of Business on the Trading Day next succeeding the Offer Expiration Date;

CR<sub>0</sub> = the Conversion Rate in effect immediately prior to the Open of Business on the Trading Day next succeeding the Offer Expiration Date;

AC = the aggregate value of all cash and any other consideration (as determined in good faith by the Board of Directors or a duly authorized committee thereof) paid or payable for shares of Common Stock purchased in such tender or exchange offer;

OS<sub>0</sub> = the number of shares of Common Stock outstanding immediately prior to the time (the “Offer Expiration Time”) such tender or exchange offer expires (prior to giving effect to such tender or exchange offer);

OS = the number of shares of Common Stock outstanding immediately after the Offer Expiration Time (after giving effect to the purchase of all shares accepted for purchase or exchange in such tender or exchange offer); and

SP = the average of the Closing Sale Prices of the Common Stock over the 10 consecutive Trading-Day period commencing on, and including, the Trading Day next succeeding the Offer Expiration Date.

The adjustment to the Conversion Rate under the preceding paragraph of this clause (e) will be determined at the Close of Business on the tenth Trading Day immediately following, but excluding, the Offer Expiration Date but will be given effect at the Open of Business on the Trading Day next succeeding the Offer Expiration Date. In respect of any conversion during the 10 Trading Days commencing on the Trading Day next succeeding the Offer Expiration Date, references within this clause (e) to 10 Trading Days shall be deemed to be replaced, solely in respect of that conversion, with such lesser number of Trading Days as have elapsed from, and including, the Trading Day next succeeding the Offer Expiration Date to, but excluding, the relevant Conversion Date. No adjustment pursuant to the above formula will result in a decrease of the Conversion Rate.

(f) Intentionally Omitted.

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(g) *Conversion Price Reset.*

(i) Notwithstanding anything to the contrary herein, on each of March 15, 2027, December 31, 2027, September 30, 2028, June 30, 2029, March 15, 2030, and December 31, 2030 (each, a “Reset Date”), if the average of the Daily VWAPs for the five consecutive VWAP Trading Days prior to such Reset Date (the “Average Price”) is less than the Conversion Price then in effect prior to giving effect to any adjustment pursuant to this Section 3.04(g) (the “Pre-Reset Conversion Price”) with respect to such Reset Date, then effective as of the Reset Date the Conversion Price shall be reset to equal the greater of the Average Price and the Reset Floor. This Section 3.04(g)(i) shall terminate automatically, and shall cease to have any further force or effect, immediately upon the earlier to occur of (x) the later to occur of (i) March 15, 2027 and (ii) conversion of at least 50% of the aggregate principal amount of the Notes issued pursuant to the terms of this Indenture or (y) the Company’s issuance of Common Stock at a gross price per share that is higher than the then-effective Conversion Price in which the Company generates gross proceeds of at least the sum of (x) \$80,250,000 and (y) 75% of the aggregate principal amount of the Notes issued pursuant to the terms of this Indenture. For the avoidance of doubt, following termination of this Section 3.04(g)(i) pursuant to the immediately preceding sentence, the Notes will not be subject to any downward Conversion Price reset pursuant to this Section 3.04(g)(i), however, the other Conversion Price provisions set forth in this Article 3 (including Section 3.04(g)(ii)) shall remain applicable and in effect pursuant to the terms of this Indenture.

(ii) Notwithstanding anything to the contrary herein, on March 15, 2027 (the “Upward Reset Date”), if the average of the Daily VWAPs for the five consecutive VWAP Trading Days prior to the Upward Reset Date (the “Upward Average Price”) is greater than the Pre-Reset Conversion Price, then effective as of the Upward Reset Date the Conversion Price shall be reset to equal the lower of (a) 125% multiplied by the Pre-Reset Conversion Price and (b) (i) the Pre-Reset Conversion Price plus (ii) 83% multiplied by (x) the Upward Average Price minus (y) the Pre-Reset Conversion Price; provided, however, that this Section 3.04(g)(ii) shall not apply if the Company has delivered a Redemption Notice prior to the Upward Reset Date.

(iii) Notwithstanding anything to the contrary in this Section 3.04(g) or elsewhere in this Indenture, in no event shall the Conversion Price be reduced below the Reset Floor, irrespective of the number or magnitude of Reset Events or any other adjustments pursuant to this Article 3.

(iv) The Company shall promptly deliver written notice to the Holders, Trustee and the Conversion Agent upon the occurrence of any event that causes the termination of Section 3.04(g)(i).

(h) *Special Settlement Provisions.* Notwithstanding anything to the contrary herein, if a Note is converted and:

(i) any distribution, transaction or event described in Sections 3.04(a) through (g) has not yet resulted in an adjustment to the Conversion Rate on such VWAP Trading Day; and

(ii) the shares of Common Stock deliverable in respect of such VWAP Trading Day are not entitled to participate in the relevant distribution or transaction (because such shares of Common Stock were not held on a related Record Date or otherwise),

then the Company will adjust the number of shares of Common Stock delivered in respect of the relevant VWAP Trading Day to reflect the relevant distribution or transaction.

If a Note is converted and:

(i) any distribution or transaction described in Sections 3.04(a) through (g) has not yet resulted in an adjustment to the Conversion Rate on a given Conversion Date; and

(ii) the shares of Common Stock deliverable on settlement of the related conversion are not entitled to participate in the relevant distribution or transaction (because such shares of Common Stock were not held on a related Record Date or otherwise),

then the Company will adjust the number of shares of Common Stock delivered in respect of the relevant conversion to reflect the relevant distribution or transaction.

Notwithstanding the foregoing, if a Conversion Rate adjustment becomes effective on any Ex-Dividend Date as described above, and a Holder of Notes that has converted on or after such Ex-Dividend Date and on or prior to the related Record Date would be treated as the record holder of shares of Common Stock as of the related Conversion Date pursuant to Section 3.03 based on an adjusted Conversion Rate for such Ex-Dividend Date, then, notwithstanding the foregoing Conversion Rate adjustment provisions, the Conversion Rate adjustment relating to such Ex-Dividend Date will not be made for the Holder of such converting Notes. Instead, such Holder will be treated as if such Holder were the record owner of the shares of Common Stock on an unadjusted basis and participate in the related dividend, distribution or other event giving rise to such adjustment.

(i) *Poison Pill.* If a Note is converted, to the extent that the Company has a rights plan in effect on the Conversion Date applicable to such Note, the Holder of such converting Note will receive, in addition to any shares of Common Stock otherwise received in connection with such conversion on such Conversion Date or such VWAP Trading Day, as the case may be, the rights under the rights plan, unless prior to such Conversion Date or such VWAP Trading Day, as the case may be, the rights have separated from the Common Stock, in which case, and only in such case, the Conversion Rate will be adjusted at the time of separation as if the Company distributed to all holders of the Common Stock, Distributed Property as described in Section 3.04(c), subject to readjustment in the event of the expiration, termination or redemption of such rights.

(j) *Deferral of Adjustments.* Notwithstanding anything to the contrary herein, the Company will not be required to adjust the Conversion Rate unless such adjustment would result in a change of at least one percent; *provided, however*, that the Company shall carry forward any adjustments that are less than one percent of the Conversion Rate and make such carried forward adjustments (i) when the cumulative net effect of all adjustments not yet made will result in a change of at least one percent of the Conversion Rate or (ii) regardless of whether the aggregate adjustment is less than one percent, (1) upon any offer to purchase the Notes following a Fundamental Change, (2) upon any conversion of Notes and (3) on the Effective Date for any Fundamental Change.

(k) *Limitation on Adjustments.* Except as stated in this Section 3.04, the Company will not adjust the Conversion Rate for the issuance of shares of Common Stock or any securities convertible into or exchangeable for shares of Common Stock or the right to purchase shares of Common Stock or such convertible or exchangeable securities. If, however, the application of the formulas in Sections 3.04(a) through (f) would result in a decrease in the Conversion Rate, then, except to the extent of any readjustment to the Conversion Rate, no adjustment to the Conversion Rate will be made (other than as a result of a reverse share split or share combination). Notwithstanding anything to the contrary, under no circumstance will any adjustment, or the application of any formula, set forth in this Section 3.04 increase the Conversion Rate above the maximum Conversion Rate provided in the definition of Conversion Rate.

(l) Notwithstanding anything to the contrary in this Article 3, the application of adjustments to the Conversion Rate and the Conversion Price shall be governed by the following order of operations: (i) first, any applicable Anti-Dilution Adjustments shall be applied; (ii) second, any applicable Conversion Price resets pursuant to Section 3.04(g) shall be applied (taking into account the Conversion Price as adjusted pursuant to clause (i)); (iii) third, any applicable Make-Whole Amounts pursuant to Section 3.06 shall be applied (taking into account the Conversion Rate as adjusted pursuant to clauses (i) and (ii)); and (iv) fourth, any applicable make whole pursuant to Section 3.07 shall be applied (taking into account the Conversion Rate as adjusted pursuant to clauses (i), (ii) and (iii)). In the event that both an Anti-Dilution Adjustment and a Conversion Price reset pursuant to Section 3.04(g) are applicable during the same observation period, the Conversion Price shall be determined by first applying the Anti-Dilution Adjustment and then the Conversion Price reset, and in no event shall any adjustment be applied more than once to the same price movement or event giving rise to such adjustment.

For purposes of this Section 3.04, the number of shares of Common Stock at any time outstanding shall not include shares held in the treasury of the Company so long as the Company does not pay any dividend or make any distribution on shares of Common Stock held in the treasury of the Company, but shall include shares issuable in respect of scrip certificates issued in lieu of fractions of shares of Common Stock.

### **Section 3.05 Discretionary and Voluntary Adjustments.**

(a) *Discretionary Adjustments.* Whenever any provision of this Indenture requires the Company to calculate the Closing Sale Prices, the Daily VWAPs or any function thereof over a span of multiple days, the Company will make appropriate adjustments to each, if any, to account for any adjustment to the Conversion Rate that becomes effective, or any event requiring an adjustment to the Conversion Rate where the effective date, Ex-Dividend Date or Offer Expiration Date of the event occurs, at any time during the period when such Closing Sale Prices, the Daily VWAPs or function thereof is to be calculated.

(b) *Voluntary Adjustments.* To the extent permitted by law and any applicable rules of the Exchange, the Company is permitted to increase the Conversion Rate of the Notes by any amount for a period of at least 20 Business Days if such increase is irrevocable for such period and the Board of Directors determines that such increase would be in the Company's best interest; *provided* that the Company must give at least 15 days' prior notice of any such increase in the Conversion Rate to the Holders (with a copy to the Trustee and Conversion Agent). The Company may also (but is not required to) increase the Conversion Rate to avoid or diminish income tax to holders of Common Stock or rights to purchase shares of Common Stock in connection with a dividend or distribution of shares (or rights to acquire shares) or similar event.

### **Section 3.06 Adjustments to the Conversion Rate in Connection with a Make-Whole Fundamental Change.**

(a) *Generally.* If a Make-Whole Fundamental Change occurs and the Conversion Date for the Conversion of a Note occurs during the related Make-Whole Fundamental Change Conversion Period, then, subject to this Section 3.06, the Conversion Rate applicable to such conversion will equal the greater of (i) the As-Adjusted Coupon Make-Whole Conversion Rate and (ii) the As-Adjusted Table Make-Whole Conversion Rate, which As-Adjusted Table Make-Whole Conversion Rate shall be calculated by reference to the number of shares (the "Additional Shares") set forth in the table below corresponding (after interpolation as provided in, and subject to, the provisions below) to the Make-Whole Fundamental Change Effective Date and the Stock Price of such Make-Whole Fundamental Change:

#### **Stock Price**

#### **Make Whole Fundamental Change**

| Effective Date | \$ 21.78 | \$ 26.136 | \$ 30.492 | \$ 34.848 | \$ 39.204 | \$ 43.56 | \$ 65.34 | \$ 87.12 | \$ 108.9 | \$ 130.68 |
|----------------|----------|-----------|-----------|-----------|-----------|----------|----------|----------|----------|-----------|
| 6/5/2026       | 10.5955  | 8.2844    | 6.7001    | 5.5553    | 4.6939    | 4.0253   | 2.1501   | 1.3068   | 0.8427   | 0.5563    |
| 6/15/2027      | 10.5955  | 8.2844    | 6.7001    | 5.518     | 4.6266    | 3.9415   | 2.0618   | 1.2402   | 0.7955   | 0.5238    |
| 6/15/2028      | 10.5955  | 8.2844    | 6.6273    | 5.3587    | 4.433     | 3.7342   | 1.8846   | 1.1154   | 0.7101   | 0.466     |
| 6/15/2029      | 10.5955  | 8.2243    | 6.2275    | 4.8806    | 3.9315    | 3.2378   | 1.5266   | 0.8806   | 0.5561   | 0.3646    |
| 6/15/2030      | 10.5955  | 7.3489    | 5.0833    | 3.6765    | 2.766     | 2.1538   | 0.8822   | 0.4974   | 0.3179   | 0.2129    |
| 6/15/2031      | 10.5955  | 2.9431    | 0         | 0         | 0         | 0        | 0        | 0        | 0        | 0         |

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

(i) if such Stock Price is between two Stock Prices in the table above or the Make-Whole Fundamental Change Effective Date is between two dates in the table above, then the number of Additional Shares will be determined by straight-line interpolation between the numbers of Additional Shares set forth for the higher and lower Stock Prices in the table above or the earlier and later dates in the table above, based on a 365- or 366-day year, as applicable; and

(ii) if the Stock Price is greater than \$130.68 (subject to adjustment in the same manner as the Stock Prices set forth in the column headings of the table above are adjusted pursuant to Section 3.06(b)) or less than \$21.78 (subject to adjustment in the same manner), per share, then no Additional Shares will be added to the Conversion Rate.

Notwithstanding anything to the contrary in this Indenture or the Notes, in no event will the Conversion Rate be increased to an amount that exceeds 125.0000 shares of Common Stock per \$1,000 of the sum of the principal amount of Notes plus all accrued and unpaid interest on such Notes, which amount is subject to adjustment in the same manner as, and at the same time and for the same events for which, the Conversion Rate is required to be adjusted pursuant to Section 3.04; provided, however, that (x) to the extent the As-Adjusted Coupon Make-Whole Conversion Rate or the As-Adjusted Table Make-Whole Conversion Rate that would otherwise be applicable pursuant to this Section 3.06 would cause the Conversion Rate to exceed such maximum, the Company shall nonetheless deliver such excess shares of Common Stock to the converting Holder as additional consideration outside of the Conversion Rate in connection with the applicable conversion (or, if the Company is unable to deliver such excess shares in the form of registered shares of Common Stock, pay cash in lieu thereof in accordance with the provisions of Section 3.06(d)) and (y) the foregoing maximum Conversion Rate shall not limit the number of additional shares of Common Stock deliverable pursuant to Section 3.07, and any such additional shares in excess of the maximum Conversion Rate shall be delivered to the converting Holder as additional consideration in connection with the applicable conversion.

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(b) *Adjustment of Stock Prices and Number of Additional Shares.* The Stock Prices in the first row (i.e., the column headers) of the table set forth in Section 3.06(a) will be adjusted in the same manner as, and at the same time and for the same events for which, the Conversion Price is adjusted as a result of the operation of Section 3.04 (which amount, in the event of an adjustment to the Conversion Rate pursuant to Section 3.04(g), shall be adjusted by multiplying such amount by a fraction, the numerator of which is the Conversion Rate immediately prior to such adjustment and the denominator of which is the Conversion Rate immediately after such adjustment). The numbers of Additional Shares in the table set forth in Section 3.06(a) will be adjusted in the same manner as, and at the same time and for the same events for which, the Conversion Rate is adjusted pursuant to Section 3.04 (which amount, in the event of an adjustment to the Conversion Rate pursuant to Section 3.04(g), shall be adjusted by multiplying such amount by a fraction, the numerator of which is the Conversion Rate immediately after such adjustment and the denominator of which is the Conversion Rate immediately prior to such adjustment).

(c) *Notice of the Occurrence of a Make-Whole Fundamental Change.* The Company will notify the Holders, the Trustee and the Conversion Agent (if other than the Trustee) of each Make-Whole Fundamental Change in accordance with Section 3.01(b)(ii).

(d) Notwithstanding anything to the contrary in this Section 3.06 or elsewhere in this Indenture, if, at the time of any conversion during a Make-Whole Fundamental Change Conversion Period, the Company is unable to deliver shares of Common Stock in respect of the Additional Shares because (i) such shares are not registered for resale under an effective registration statement filed with the Commission, (ii) such delivery is prohibited or restricted by applicable law, regulation, order or directive of any Governmental Authority, or (iii) the Company does not have a sufficient number of authorized but unissued and unreserved shares of Common Stock available for delivery, then, in lieu of delivering such shares of Common Stock in respect of the Additional Shares (or the portion thereof that the Company is unable to deliver), the Company shall pay to the converting Holder, on the third Business Day following the applicable Conversion Date, cash in an amount equal to the product of (x) the number of shares of Common Stock comprising the Additional Shares (or such undeliverable portion thereof) and (y) the Closing Sale Price of the Common Stock on the Conversion Date (or, if the Conversion Date is not a VWAP Trading Day, on the immediately preceding VWAP Trading Day). For the avoidance of doubt, any failure by the Company to pay or deliver, as applicable, the full Settlement Amount (including any Additional Shares or cash in lieu thereof pursuant to this paragraph) within the time periods specified in Section 3.03 shall constitute an Event of Default pursuant to Section 5.01(b). The Company shall promptly notify the Trustee and the Conversion Agent (if other than the Trustee) in writing if it determines that it will be unable to deliver shares of Common Stock in respect of any Additional Shares and will instead be required to make a cash payment pursuant to this paragraph.

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### **Section 3.07 Interest Make-Whole Conversion Rate Adjustment upon Certain Conversions.**

Subject to the provisions in Section 3.06(a) through (c) for conversions in connection with a Make-Whole Fundamental Change, which, for the avoidance of doubt, will operate independently from this Section 3.07, if a Holder delivers its Notes for conversion at any time after March 15, 2027 prior to the close of business on the Business Day immediately preceding March 15, 2029, then the Conversion Rate then in effect (after giving effect to any concurrent Conversion Rate on a Reset Date) per \$1,000 principal amount of Notes to be converted will be increased such that such Holder shall be entitled to receive, solely for purposes of such conversion, a number of additional shares of Common Stock, if any, equal to the quotient obtained by dividing (a) the amount of interest that would have accrued on the principal amount on such Notes to be converted had such Notes remained outstanding from the Conversion Date to, and including March 15, 2029, by (b) the greater of (I) the average Daily VWAP for the five consecutive VWAP Trading Days beginning on, and including, the sixth VWAP Trading Day immediately preceding the Conversion Date and (II) the Reset Floor. In the event that (I) the number of shares delivered pursuant to the foregoing sentence is less than (II) the number of shares that would have been delivered had the Conversion Rate then in effect per \$1,000 principal amount of Notes to be converted been increased such that such Holder would have been entitled to receive, solely for purposes of such conversion, a number of additional shares of Common Stock, if any, equal to the quotient obtained by dividing (a) the amount of interest that would have accrued on the principal amount on such Notes to be converted had such Notes remained outstanding from the Conversion Date to, and including March 15, 2029, by (b) the average Daily VWAP for the five consecutive VWAP Trading Days beginning on, and including, the sixth VWAP Trading Day immediately preceding the Conversion Date, then the Company shall make a cash interest payment equal to such difference multiplied by the average Daily VWAP for the five consecutive VWAP Trading Days beginning on, and including, the sixth VWAP Trading Day immediately preceding the Conversion Date. For the avoidance of doubt, any increase to the Conversion Rate in connection with a conversion pursuant to this Section 3.07 will only be applicable for purposes of the conversion of such Notes and will not be applicable for any other calculation or purposes. Notwithstanding anything to the contrary, any increase to the Conversion Rate in connection with a conversion pursuant to this Section 3.07 shall only be payable in Common Stock pursuant to Section 3.03(a)(i).

### **Section 3.08 Effect of Recapitalization, Reclassification, Consolidation, Merger or Sale.**

(a) *Merger Events.* In the case of:

(i) any recapitalization, reclassification or change of the Common Stock (other than changes resulting from a split, subdivision or combination for which an adjustment was made pursuant to Section 3.04(a));

(ii) any consolidation, merger, combination, binding share exchange or similar transaction involving the Company;

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(iii) any sale, assignment, conveyance, transfer, lease or other disposition to a third party of the consolidated property and assets of the Company as an entirety or substantially as an entirety; or

(iv) a liquidation or dissolution of the Company;

and, in each case, as a result of which the Common Stock would be converted into, or exchanged for, common stock, other securities, other property or assets (including cash or any combination thereof) (any such event, a “**Merger Event**,” any such common stock, other securities, other property or assets (including cash or any combination thereof), “**Reference Property**,” and (i) the amount and kind of Reference Property that a holder of one share of Common Stock is entitled to receive in the applicable Merger Event, or (ii) if as a result of the applicable Merger Event, each share of Common Stock is converted into, or exchanged for, the right to receive more than a single type of consideration (determined based in part upon any form of stockholder election), the per share of Common Stock weighted average of the amounts and kinds of Reference Property received by the holders of Common Stock that affirmatively make such an election (disregarding, for these purposes, any arrangement to deliver cash in lieu of any fractional security or other unit of Reference Property), a “**Unit of Reference Property**”) then, at the effective time of such Merger Event, Holders of each \$1,000 principal amount of Notes shall be entitled thereafter to convert such Notes plus accrued and unpaid interest on such Notes into the kind and amount of Reference Property that a Holder of a number of shares of Common Stock equal to the Conversion Rate in effect immediately prior to such Merger Event would have owned or been entitled to receive upon such Merger Event, and, prior to or at the effective time of such Merger Event, the Company or the successor or purchasing person, as the case may be, shall execute with the Trustee a supplemental indenture providing for such change in the right to convert each \$1,000 principal amount of Notes plus accrued and unpaid interest on such Notes; *provided, however*, that at and after the effective time of the Merger Event, (i) the number of shares of Common Stock that the Company would have been required to deliver upon conversion of the Notes in accordance with Section 3.03 and 3.06 shall instead be deliverable in Units of Reference Property that a Holder of that number of shares of Common Stock would have received in such Merger Event and (ii) the Daily VWAP and the Closing Sale Price will, to the extent reasonably possible, be calculated based on the value of a Unit of Reference Property and the definitions of VWAP Trading Day and VWAP Market Disruption Event shall be determined by reference to the components of a Unit of Reference Property. The Company shall notify in writing the Holders, the Trustee and the Conversion Agent (if other than the Trustee) of such weighted average as soon as practicable after such determination is made.

The Company shall not become a party to any Merger Event unless its terms are consistent with this Section 3.08. Such supplemental indenture described in the immediately preceding paragraph shall provide for adjustments which shall be as nearly equivalent to the adjustments provided for in this Article 3 in the judgment of the Board of Directors or the board of directors of the successor person. If, in the case of any such Merger Event, the Reference Property receivable thereupon by a holder of Common Stock includes shares of stock, securities or other property or assets (including cash or any combination thereof) of a person other than the successor or purchasing person, as the case may be, in such Merger Event, then such indenture shall also be executed by such other person.

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If the Notes become convertible into, or exchanged for Reference Property, the Company shall notify the Trustee and the Conversion Agent, and shall issue a press release containing the relevant information (and make such press release available on the Company’s website).

(b) *Notice of Supplemental Indentures.* The Company shall cause written notice of the execution of any supplemental indenture described in Section 3.08(a) to be mailed to each Holder, at the address of such Holder as it appears on the register of the Notes maintained by the Registrar, within 20 calendar days after execution thereof. Failure to deliver such notice shall not affect the legality or validity of such supplemental indenture. The above provisions of this Section 3.08 shall similarly apply to successive Merger Events.

(c) *Prior Notice.* In addition, at least 20 Scheduled Trading Days before any Merger Event, the Company shall give notice to Holders of such Merger Event (with a copy to the Trustee and Conversion Agent), or, if the Company has not publicly announced such Merger Event at such time, as promptly as practicable after publicly announcing such Merger Event. In any such notice, the Company shall also specify the composition of the Unit of Reference Property for such Merger Event, or, if the Company has not determined the composition of such Unit of Reference Property at such time, the Company will provide an additional written notice to Holders (with a copy to the Trustee and Conversion Agent) that states the composition of such Unit of Reference Property as promptly as practicable after determining its composition.

(d) *Cash Mergers.* Notwithstanding anything to the contrary herein, if the consideration paid to holders of the Common Stock in any Merger Event is comprised entirely of cash, then, for any conversion of Notes following such Merger Event, (i) the consideration due upon the conversion of each \$1,000 of the sum of the principal amount of Notes plus accrued and unpaid interest thereon shall be solely in cash in an amount equal to the Conversion Rate in effect on the Conversion Date (including any adjustment as set forth in Section 3.06), multiplied by the price paid per share of Common Stock in such Merger Event and (ii) the Company’s conversion obligation will be determined and paid to Holders in cash on the third Business Day following the applicable Conversion Date.

### **Section 3.09 Certain Covenants.**

(a) *Reservation of Shares.* The Company shall reserve and keep available at all times from and after the Issue Date, free from preemptive rights, out of its authorized but unissued Common Stock that is not committed for any other purpose, a number of shares of Common Stock at least equal to the product of (i) the number of Notes then outstanding multiplied by (ii) the maximum Conversion Rate of 125.0000 shares of Common Stock, for the purpose of satisfying conversions of the Notes, which shall be sufficient to satisfy conversions of all Outstanding Notes. The Company shall take all actions necessary to ensure that sufficient authorized but unissued shares of Common Stock are available at all times to satisfy in full the conversion of all Outstanding Notes, including, without limitation, seeking stockholder approval to increase the number of authorized shares of Common Stock if the Company reasonably determines that the number of authorized but unissued and unreserved shares of Common Stock may become insufficient to satisfy such obligation.

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(b) *Certain other Covenants.* The Company covenants that all shares of Common Stock that may be issued upon conversion of Notes shall be newly issued shares or treasury shares, shall be issued in book-entry form, shall be duly authorized, validly issued, fully paid and non-assessable and shall be free from preemptive rights and free from any tax, lien or charge (other than those created by the Holder or due to a change in registered owner). The Company shall list or cause to have quoted any shares of Common Stock to be issued upon conversion of Notes on each national securities exchange or over-the-counter or other domestic market on which the Common Stock is then listed or quoted.

### **Section 3.10 Responsibility of Trustee.**

The Trustee and any Conversion Agent shall not at any time be under any duty or responsibility to any Holder of Notes to determine or calculate the Conversion Rate (or any adjustment thereto), to determine whether any facts exist which may require any adjustment (including any increase) of the Conversion Rate, or to confirm the accuracy of any such adjustment when made or the appropriateness of the method employed, or herein or in any supplemental indenture provided to be employed, in making the same. The Trustee and any Conversion Agent (if other than the Company) shall not be accountable with respect to the validity or value (or the kind or amount) of any shares of Common Stock, monitoring the Company's stock trading price or of any other securities or property or cash that may at any time be issued or delivered upon the conversion of any Notes; and the Trustee and the Conversion Agent (if other than the Company) make no representations with respect thereto. Neither the Trustee nor any Conversion Agent (if other than the Company) shall be responsible for any failure of the Company to issue, transfer or deliver any shares of Common Stock or stock certificates or other securities or property or cash upon the surrender of any Notes for the purpose of conversion or to comply with any of the duties, responsibilities or covenants of the Company contained in this Article 3. Without limiting the foregoing, neither the Trustee nor any Conversion Agent shall be under any responsibility to determine the correctness of any provisions contained in any supplemental indenture entered into pursuant to Section 3.08, relating either to the kind or amount of shares of stock or securities or property (including cash) receivable by the Holders upon conversion of their Notes after any event referred to in such Section 3.08 or to any adjustment to be made with respect thereto, but may accept (without any independent investigation) as conclusive evidence of the correctness of any such provisions, and shall be protected in relying upon, an Officer's Certificate (which the Company shall be obligated to deliver to the Trustee prior to the execution of any such supplemental indenture. Neither the Trustee nor any Conversion Agent shall be responsible for determining whether any event contemplated by this Article 3 has occurred that makes the Notes eligible for conversion or no longer eligible therefore until the Company has delivered to the Trustee and the Conversion Agent any requisite notices referred to in this Article 3 with respect to the commencement or termination of such conversion rights, on which notices the Trustee and the Conversion Agent may conclusively rely, and the Company agrees to delivery such notices to the Trustee and the Conversion Agent as provided for in this Article 3. The rights, privileges, protections, immunities and benefits given to the Trustee, including without limitation its right to be compensated, reimbursed and indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, including its capacity as Conversion Agent.

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### **Section 3.11 Notice of Adjustment.**

Whenever the Conversion Rate is adjusted as herein provided, the Company shall promptly file with the Trustee and any Conversion Agent (if other than the Trustee) an Officer's Certificate setting forth the Conversion Rate after such adjustment and setting forth a brief statement of the facts requiring such adjustment. Unless and until a Responsible Officer of the Trustee (and the Conversion Agent, if different than the Trustee) shall have received such Officer's Certificate, the Trustee (and the Conversion Agent, if different than the Trustee) shall not be deemed to have knowledge of any adjustment of the Conversion Rate and may assume that the last Conversion Rate of which it has knowledge is still in effect. Promptly after delivery of such certificate, the Company shall (i) issue a press release and make the press release available on the Company's website and (ii) prepare a notice of such adjustment of the Conversion Rate, in each case, setting forth the adjusted Conversion Rate and the date as of which each adjustment becomes effective and shall deliver such notice of such adjustment of the Conversion Rate to the Holder of each Note (with a copy to the Trustee and Conversion Agent) at his or her last address appearing on the Register provided for in Section 2.06, within 20 days after execution thereof. Failure to issue such press release or deliver such notice shall not affect the legality, effectiveness or validity of any such adjustment and shall not be an Event of Default under this Indenture.

### **Section 3.12 Notice to Holders.**

(a) *Notice to Holders Prior to Certain Actions.* The Company shall deliver notices of the events specified below at the times specified below and containing the information specified below unless, in each case, (i) pursuant to this Indenture, the Company is already required to deliver notice of such event containing at least the information specified below at an earlier time or, (ii) the Company, at the time it is required to deliver a notice, does not have knowledge of all of the information required to be included in such notice, in which case, the Company shall (A) deliver notice at such time containing only the information that it has knowledge of at such time (if it has knowledge of any such information at such time), and (B) promptly upon obtaining knowledge of any such information not already included in a notice delivered by the Company, deliver notice to each Holder with a copy to the Trustee and the Conversion Agent containing such information. In each case, the failure by the Company to give such notice, or any defect therein, shall not affect the legality or validity of such event.

(i) *Voluntary Increases.* If the Company increases the Conversion Rate pursuant to Section 3.05(b), the Company shall mail to the Holders with a copy to the Trustee and the Conversion Agent a notice of the increased Conversion Rate and the period during which such increased Conversion Rate will be in effect at least 15 calendar days prior to the date the increased Conversion Rate takes effect, in accordance with the applicable law.

(ii) *Dissolutions, Liquidations and Winding-Ups.* If there is a voluntary or involuntary dissolution, liquidation or winding-up of the Company, the Company shall deliver notice to the Holders (with a copy to the Trustee) as promptly as possible, but in any event at least 15 calendar days prior to the earlier of (i) the date on which such dissolution, liquidation or winding-up, as the case may be, is expected to become effective or occur, and (ii) the date as of which it is expected that holders of Common Stock of record shall be entitled to exchange their Common Stock for securities or other property deliverable upon such dissolution, liquidation or winding-up, as the case may be, which notice shall state the expected effective date and record date for such event, as applicable, and the amount and kind of property that a holder of one share of the Common Stock is expected to be entitled, or may elect, to receive in such event. The Company shall deliver an additional notice to holders, as promptly as practicable, whenever the expected effective date or record date, as applicable, or the amount and kind of property that a holder of one share of the Common Stock is expected to be entitled to receive in such event, changes.

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(b) *Notices After Certain Actions and Events.* Whenever an adjustment to the Conversion Rate becomes effective pursuant to Sections 3.04, 3.05, 3.06 or 3.07, the Company will (i) deliver to the Trustee and Conversion Agent an Officer's Certificate stating that such adjustment has become effective, the Conversion Rate, and the manner in which the adjustment was computed and (ii) deliver written notice to the Holders (with a copy to the Trustee and Conversion Agent) stating that such adjustment has become effective and the Conversion Rate or conversion privilege as adjusted. Failure to give any such notice, or any defect therein, shall not affect the validity of any such adjustment.

## **ARTICLE 4 COVENANTS**

### **Section 4.01 Payment of Principal and Interest.**

The Company covenants and agrees that it will cause to be paid the principal of (including the Fundamental Change Repurchase Price, if applicable), premium, if any, on and accrued and unpaid interest, if any, on each of the Notes at the places, at the respective times and in the manner provided herein and in the Notes. Principal, premium, if any, on accrued and unpaid interest, if any, shall be considered paid on the date due if the Paying Agent holds, as of 10:00 a.m. (New York City time) on the due date, money deposited by the Company in immediately available funds and designated for and sufficient to pay all principal, premium, if any and interest then due.

### **Section 4.02 Maintenance of Office or Agency.**

The Company will maintain in the continental United States an office of the Paying Agent, an office of the Registrar and an office or agency where Notes may be surrendered for conversion ("**Conversion Agent**") and where notices and demands to or upon the Company in respect of the Notes and this Indenture may be made. The Company will give prompt written notice to the Trustee of the location, and any change in the location, of such office or agency. If at any time the Company shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made at the Corporate Trust

The Company may also from time to time designate as co-registrars one or more other offices or agencies where the Notes may be presented or surrendered for any or all such purposes and may from time to time rescind such designations; *provided* that no such designation or rescission shall in any manner relieve the Company of its obligation to maintain an office or agency in the continental United States for such purposes. The Company will give prompt written notice to the Trustee of any such designation or rescission and of any change in the location of any such other office or agency. The terms “Paying Agent” and “Conversion Agent” include any such additional or other offices or agencies, as applicable.

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The Company hereby initially designates the Trustee as the Paying Agent, Registrar, Conversion Agent, and its Corporate Trust Office shall be considered as one such office or agency of the Company for each of the aforesaid purposes. The Company or its Affiliates may act as Paying Agent or Registrar.

With respect to any Global Note, the Corporate Trust Office of the Trustee or any Paying Agent shall be the place of payment where such Global Note may be presented or surrendered for payment or conversion or for registration of transfer or exchange, or where successor Notes may be delivered in exchange therefor; *provided, however*, that any such payment, conversion, presentation, surrender or delivery effected pursuant to the Applicable Procedures for such Global Note shall be deemed to have been effected at the place of payment for such Global Note in accordance with the provisions of this Indenture.

#### **Section 4.03 Provisions as to Paying Agent.**

(a) If the Company shall appoint a Paying Agent other than the Trustee, the Company will cause such Paying Agent to execute and deliver to the Trustee an instrument in which such agent shall agree, subject to the provisions of this Section 4.03:

(i) that it will hold all sums held by it as such agent for the payment of the principal of, any premium on, accrued and unpaid interest, if any, on, and the Fundamental Change Repurchase Price for, the Notes in trust for the benefit of the Holders of the Notes;

(ii) that it will give the Trustee prompt written notice of any failure by the Company to make any payment of the principal of, any premium on, accrued and unpaid interest, if any, on, or the Fundamental Change Repurchase Price for, the Notes when the same shall be due and payable; and

(iii) that at any time during the continuance of an Event of Default, upon request of the Trustee, it will forthwith pay to the Trustee all sums so held in trust.

The Company shall, on or before each due date of the principal of, any premium on, accrued and unpaid interest, if any, on, and the Fundamental Change Repurchase Price for the Notes, deposit with the Paying Agent a sum sufficient to pay such principal, premium, accrued and unpaid interest or the Fundamental Change Repurchase Price, as the case may be, and (unless such Paying Agent is the Trustee) the Company will promptly notify the Trustee in writing of any failure to take such action, *provided* that, if such deposit is made on the due date, such deposit must be received by the Paying Agent by 10:00 a.m., New York City time, on such date.

(b) If the Company shall act as its own Paying Agent, it will, on or before each due date of the principal of, any premium on, accrued and unpaid interest, if any, on, the Fundamental Change Repurchase Price for, the Notes, set aside, segregate and hold in trust for the benefit of the Holders of the Notes a sum sufficient to pay such principal, any premium, accrued and unpaid interest, if any, or the Fundamental Change Repurchase Price, as the case may be, so becoming due and will promptly notify the Trustee in writing of any failure to take such action and of any failure by the Company to make any payment of the principal of, premium on, accrued and unpaid interest on, or the Fundamental Change Repurchase Price for, the Notes when the same shall become due and payable. Upon any bankruptcy, reorganization or similar proceeding with respect to the Company, the Trustee shall automatically serve as Paying Agent for the Notes.

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(c) Anything in this Section 4.03 to the contrary notwithstanding, the Company may, at any time, for the purpose of obtaining a satisfaction and discharge of this Indenture, or for any other reason, pay or cause to be paid to the Trustee all sums held in trust by any Paying Agent hereunder as required by this Section 4.03, such sums to be held by the Trustee upon the trusts herein contained and upon such payment by any Paying Agent to the Trustee, such Paying Agent (if other than the Company) shall be released from all further liability with respect to such sums.

(d) Subject to any applicable abandoned property law, any money deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the principal of, any premium on, accrued and unpaid interest, if any, on, or the Fundamental Change Repurchase Price for, any Note and remaining unclaimed for two years after such principal, premium, accrued and unpaid interest, or the Fundamental Change Repurchase Price has become due and payable shall be paid to the Company on written request of the Company contained in an Officer's Certificate, or (if then held by the Company) shall be discharged from such trust; and the Holder of such Note shall thereafter, as an unsecured general creditor, look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Company as trustee thereof, shall thereupon cease.

#### **Section 4.04 Reports.**

(a) As long as any Notes are outstanding, the Company shall (i) file with the Commission within the time periods prescribed by its rules and regulations (giving effect to any grace period provided by Rule 12b-25 under the Exchange Act) and (ii) furnish to the Trustee and the Holders within 15 calendar days after it is required to file the same with the Commission pursuant to its rules and regulations (giving effect to any grace period provided by Rule 12b-25 under the Exchange Act), all annual financial information required to be contained in Form 20-F and, with respect to the annual consolidated financial statements only, a report thereon by the Company's independent auditors. The Company shall not be required to file any report or other information with the Commission if the Commission does not permit such filing, although such reports will be required to be furnished to the Trustee. Any such report, information or document that the Company files with the Commission through the EDGAR system (or any successor thereto) will be deemed to be delivered to the Trustee and the Holders for the purposes of this Section 4.04 at the time of such filing through the EDGAR system (or such successor thereto).

(b) At any time the Company is not subject to Section 13 or 15(d) of the Exchange Act, the Company will, so long as any of the Notes or the shares of Common Stock delivered upon conversion of the Notes will, at such time, constitute “restricted securities” within the meaning of Rule 144(a)(3) under the Securities Act, promptly provide to the Trustee and will, upon written request, provide to any Holder, beneficial owner or prospective purchaser of such Notes or such shares of Common Stock the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act to facilitate the resale of such Notes or such shares of Common Stock pursuant to Rule 144A under the Securities Act. The Company will take such further action as any Holder or beneficial owner of such Notes or any holder or beneficial owner of such shares of Common Stock may reasonably request from time to time to enable such Holder or beneficial owner to sell such Notes or such holder or beneficial owner to sell shares of Common Stock in accordance with Rule 144A under the Securities Act, as such rule may be amended from time to time.

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(c) The Trustee shall have no duty to review or analyze reports delivered to it. Delivery of any such reports, information and documents to the Trustee shall be for informational purposes only, and the Trustee's receipt of such reports, information and documents shall not constitute actual or constructive notice or knowledge of any information contained therein or determinable from information contained therein, including the Company's compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely exclusively on Officer's Certificates) or any other agreement or document. The Trustee shall not be obligated to monitor or confirm, on a continuing basis or otherwise, the Company's compliance with the covenants or with respect to any reports or other documents filed with the SEC or EDGAR or any website under the indenture, or participate in any conference calls.

#### **Section 4.05 Statements as to Defaults.**

The Company is required to deliver to the Trustee (i) within 120 days after the end of each fiscal year ending December 31, beginning with the first such fiscal year ending after the date of this Indenture, an Officer's Certificate stating whether or not the signers thereof know of any default of the Company that occurred during the previous year and whether the Company, to the Officer's knowledge, is in default in the performance or observance of any of the terms, provisions and conditions of this Indenture and (ii) within 30 days after the occurrence thereof, written notice in the form of an Officer's Certificate of any events that would constitute Defaults or Events of Default, setting forth the details of such Defaults or Events of Default, their status and the action the Company is taking or proposes to take in respect thereof. Such Officer's Certificate shall also comply with any additional requirements set forth in Section 4.07. The Trustee shall not be deemed to have notice of any Default or Event of Default except in accordance with Section 10.02(i).

#### **Section 4.06 Additional Interest Notice.**

If Additional Interest is payable by the Company pursuant to Section 5.03, the Company shall deliver to the Trustee and the Paying Agent an Officer's Certificate, prior to the Regular Record Date for each applicable Interest Payment Date, to that effect stating (a) the amount of such Additional Interest that is payable and (b) the date on which such interest is payable. Unless and until a Responsible Officer of the Trustee receives at the Corporate Trust Office such a certificate, the Trustee may assume without inquiry that no such Additional Interest is payable. The Trustee shall have no obligation to calculate or determine, or verify the Company's calculations or determinations of, the amount of any Additional Interest payable by the Company under this Indenture. If the Company has paid Additional Interest directly to the Persons entitled to it, the Company shall deliver to the Trustee an Officer's Certificate setting forth the particulars of such payment.

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#### **Section 4.07 Compliance Certificate and Opinions of Counsel.**

(a) Except as otherwise expressly provided in this Indenture, upon any application or request by the Company to the Trustee, as applicable, to take any action under any provision of this Indenture or the other Indenture Documents, the Company shall furnish to the Trustee, as applicable, an Officer's Certificate stating that all conditions precedent, if any, provided for in this Indenture and any applicable Indenture Documents relating to the proposed action have been complied with and an Opinion of Counsel stating that in the opinion of such counsel all such conditions precedent, if any, have been complied with.

(b) Every certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture or any applicable Indenture Document shall include:

- (i) a statement that each individual signing such certificate or opinion has read such covenant or condition and the definitions herein relating thereto;
- (ii) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;
- (iii) a statement that, in the opinion of each such individual, he has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been complied with; and
- (iv) a statement as to whether, in the opinion of each such individual, such condition or covenant has been complied with.

(c) All applications, requests, certificates, statements or other instruments given under this Indenture shall be without personal recourse to any individual giving the same and may include an express statement to such effect.

#### **Section 4.08 Reserved.**

#### **Section 4.09 Corporate Existence.**

Subject to Article 8, the Company will do or cause to be done all things necessary to preserve and keep in full force and effect its corporate existence, rights (charter and statutory) and franchises; *provided, however*, that the Company shall not be required to preserve any such right or franchise if, in the judgment of the Company, the preservation thereof is no longer desirable in the conduct of the business of the Company.

#### **Section 4.10 Restriction on Resales.**

The Company shall not, and shall procure that no "affiliate" (as defined under Rule 144) of the Company shall, resell any of the Notes that have been reacquired by the Company or any such "affiliate" (as defined under Rule 144).

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#### **Section 4.11 Further Instruments and Acts.**

Upon request of the Trustee, the Company will execute and deliver such further instruments and do such further acts as may be reasonably necessary or proper to carry out more effectively the purposes of this Indenture.

#### **Section 4.12 Par Value Limitation.**

The Company shall not take any action that, after giving effect to any adjustment pursuant to Article 3, would result in the issuance of shares of Common Stock for less than the par value of such shares of Common Stock.

#### **Section 4.13 Company to Furnish Trustee Names and Addresses of Holders.**

The Company will furnish or cause to be furnished to the Trustee (if not also the Registrar):

(a) semi-annually, not later than the 5<sup>th</sup> day after each Regular Record Date, a list, in such form as the Trustee may reasonably require, containing all the information in the possession or control of the Company, or any of its Paying Agents other than the Trustee, of the names and addresses of the Holders, as of such preceding Regular Record Date, and

(b) at such other times as the Trustee may request in writing, within 15 days after the receipt by the Company of any such request, a list of similar form and content as of a date the Trustee may reasonably require.

#### **Section 4.14 Negative Covenants.**

As long as any portion of the Notes remains outstanding, unless the Required Holders shall have otherwise given prior written consent, the Company shall not, directly or indirectly, create, incur, issue, assume, guarantee or otherwise become liable for any Indebtedness that ranks senior in right of payment to the Notes; *provided, however*, that (i) the Company may incur Indebtedness that ranks *pari passu* with or subordinate in right of payment to the Notes and (ii) for the avoidance of doubt, nothing in this Section 4.14 shall restrict or prohibit any Subsidiary of the Company from creating, incurring, issuing, assuming, guaranteeing or otherwise becoming liable for any Indebtedness (including, without limitation, secured project financing or other Indebtedness incurred at the Subsidiary level in the ordinary course of such Subsidiary's business). For the avoidance of doubt, the Holders of the Notes and the holders of other Obligations shall rank *pari passu* in right of payment with all other holders of unsecured, unsubordinated Indebtedness of the Company.

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#### **Section 4.15 Accounting Terms.**

(a) Generally. All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Indenture shall be prepared in conformity with, IFRS applied on a consistent basis, as in effect from time to time, applied in a manner consistent with that used in preparing the audited financial statements of the Company and its Subsidiaries, except as otherwise specifically prescribed herein. Notwithstanding the foregoing, for purposes of determining compliance with any covenant (including the computation of any financial covenant) contained herein, (i) Indebtedness of the Company and its Subsidiaries shall be deemed to be carried at 100% of the outstanding principal amount thereof, and any election by the Company under IFRS 9 (or any successor or similar standard) to designate any financial liability as at fair value through profit or loss, and the effects of any bifurcation, split accounting or separate measurement of an embedded derivative or equity component of any convertible or compound financial instrument under IAS 32, IFRS 9 or any successor or similar standard, shall in each case be disregarded; (ii) all liability amounts shall be determined excluding any lease liability relating to any operating lease, all asset amounts shall be determined excluding any right-of-use asset relating to any operating lease, all amortization or depreciation amounts shall be determined excluding any amortization or depreciation of a right-of-use asset relating to any operating lease, and all interest amounts shall be determined excluding any deemed interest comprising a portion of fixed rent payable under any operating lease, in each case to the extent that such liability, asset, amortization, depreciation or interest pertains to a lease under which the Company or a member of its consolidated group is the lessee and would not have been classified and accounted for as an operating lease under IAS 17 (and thus would not have given rise to a lease liability or right-of-use asset under IFRS as in effect on the Issue Date had IFRS 16 not been adopted); and (iii) all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made, without giving effect to any election under IFRS 9 (or any successor or similar accounting standard having a similar result or effect) to measure any Indebtedness of the Company or any of its Subsidiaries at fair value.

(b) Changes in IFRS. If at any time any change in IFRS (including the issuance, amendment or withdrawal of any standard or interpretation by the International Accounting Standards Board or the IFRS Interpretations Committee) would affect the computation of any financial ratio or requirement set forth in any Indenture Document, and either the Company or the Holders of at least a majority of the aggregate principal amount of Notes then Outstanding shall so request, the Company shall in good faith determine an amended such ratio or requirement to preserve the original intent thereof in light of such change in IFRS (subject to the approval of the Holders of at least a majority of the aggregate principal amount of Notes then Outstanding); *provided that*, until so amended, (i) such ratio or requirement shall continue to be computed in accordance with IFRS as in effect immediately prior to such change therein and (ii) the Company shall provide to the Trustee financial statements and other documents required under this Indenture or as reasonably requested hereunder setting forth a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in IFRS.

### **ARTICLE 5 REMEDIES**

#### **Section 5.01 Events of Default.**

Each of the following events shall be an "Event of Default":

(a) the Company's failure to pay the principal of or any premium, if any, on any Note when due and payable on the Maturity Date, on a Fundamental Change Repurchase Date, upon declaration of acceleration or otherwise;

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(b) the Company's failure to comply with its obligations under Article 3 to pay or deliver the Settlement Amount owing upon conversion of any Note within five calendar days;

(c) the Company's failure to pay any interest on any Note when due, and such failure continues for a period of 30 days;

(d) the Company's material failure to comply with any of its material obligations under the Purchase Agreement and such failure continues for 60 days after written notice from the Trustee or the Holders of at least 25% in principal amount of the Notes then Outstanding (a copy of which notice, if given by Holders, must also be given to the Trustee) has been received by the Company;

(e) the Company's failure to issue a Fundamental Change Repurchase Notice in accordance with Section 11.02(b) or notice in accordance with the provisions of Section 3.01(b);

(f) the Company's failure to perform any other covenant required by the Company in this Indenture (other than a covenant or agreement a default in whose performance or whose breach is specifically addressed in Sections 5.01(a) through (e) above) and such failure continues for 60 days after written notice from the Trustee or the Holders of at least 25% in principal amount of the Notes then Outstanding (a copy of which notice, if given by Holders, must also be given to the Trustee) has been received by the Company;

(g) any indebtedness for money borrowed by, or any other payment obligation of, the Company or any of its Subsidiaries that is a Significant Subsidiary of the Company (or any group of Subsidiaries that, taken together, would constitute a Significant Subsidiary of the Company), in an outstanding principal amount, individually or in the aggregate, in excess of \$5 million (or its foreign currency equivalent at the time) (i) is not paid at final maturity, upon required repurchase, upon redemption or when otherwise due (except upon acceleration that does not result from such a failure to pay) or (ii) is accelerated or otherwise is declared due and payable, unless, in the case of this clause (ii), such

indebtedness is discharged or the acceleration is cured, waived or rescinded within 30 days of the date on which such indebtedness was accelerated or was declared due and payable;

(h) the Company or any of its Subsidiaries that is a Significant Subsidiary of the Company (or any group of Subsidiaries that, taken together, would constitute a Significant Subsidiary of the Company), fails to pay one or more final and non-appealable judgments entered by a court or courts of competent jurisdiction, the aggregate uninsured or unbonded portion of which is in excess of \$5 million, *provided* that, no Event of Default will be deemed to occur under this clause (h) if such judgments are paid, discharged or stayed within 60 days after (i) the date on which the right to appeal thereof has expired if no such appeal has commenced, or (ii) the date on which all rights to appeal have been extinguished;

(i) the Company or any of its Significant Subsidiaries (or any group of Subsidiaries that, taken together, would constitute a Significant Subsidiary of the Company) (i) commences a voluntary case or other proceeding seeking the liquidation, reorganization or other relief with respect to the Company or such Significant Subsidiary or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect; (ii) seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of the Company or such Significant Subsidiary of the Company or any substantial part of the Company's or such Significant Subsidiary of the Company's property, (iii) consents to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against it, (iv) makes a general assignment for the benefit of creditors, or (v) fails generally to pay its debts as they become due; or

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(j) an involuntary case or other proceeding is commenced against the Company or any of its Significant Subsidiaries (or any group of Subsidiaries that, taken together, would constitute a Significant Subsidiary of the Company) (i) seeking liquidation, reorganization or other relief with respect to the Company or such Significant Subsidiary of the Company or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or (ii) seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of the Company or such Significant Subsidiary of the Company or any substantial part of its property, and such involuntary case or other proceeding remains undismissed and unstayed for a period of 60 consecutive days.

#### **Section 5.02 Acceleration; Rescission and Annulment.**

(a) If an Event of Default (other than an Event of Default specified in Section 5.01(i) or Section 5.01(j) with respect to the Company) occurs and is continuing, either the Trustee or the Holders of at least 25% in aggregate principal amount of the Notes then Outstanding may declare 100% of the principal of, premium, if any, and accrued and unpaid interest, if any, on all the Notes then Outstanding to be due and payable immediately. If an Event of Default specified in Section 5.01(i) or Section 5.01(j) with respect to the Company occurs, 100% of the principal of, premium, if any, and accrued and unpaid interest, if any, on all Notes shall automatically become immediately due and payable.

(b) Notwithstanding anything to the contrary in Section 5.02(a), Section 5.04 or any other provision of this Indenture, if, at any time after the principal of, and accrued and unpaid interest, if any, on, the Notes shall have been so declared due and payable in accordance with Section 5.02(a), and before any judgment or decree of a court of competent jurisdiction for the payment of the monies due shall have been obtained, and each of the conditions set forth in the immediately following clauses (i), (ii) and (iii) is satisfied:

(i) the Company delivers or deposits with the Trustee the amount of cash sufficient to pay all matured installments of principal and interest upon all the Notes, and the principal of and accrued and unpaid interest, if any, on all Notes which shall have become due otherwise than by acceleration (with interest on such principal and, to the extent that payment of such interest is enforceable under applicable law, on overdue installments of interest, at the rate or rates, if any, specified in the Notes to the date of such payment or deposit), and such amount as shall be sufficient to pay the Trustee its compensation and reimburse the Trustee for its reasonable expenses, disbursements and advances (including the fees and expenses of its agents and counsel);

(ii) rescission and annulment would not conflict with any judgment or decree of a court of competent jurisdiction; and

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(iii) any and all Events of Default under this Indenture, other than the non-payment of the principal of the Notes that became due because of the acceleration, shall have been cured, waived or otherwise remedied as provided herein,

then, the Required Holders, by written notice to the Company and to the Trustee, may waive all Defaults and Events of Default with respect to the Notes (except for any Default or Event of Default arising from (a) the Company's failure to pay principal (including the Fundamental Change Repurchase Price), or any interest on, any Notes), (b) the Company's failure to pay or deliver the Settlement Amounts due upon conversion of any Note within the applicable time period set forth under Section 3.03(a) or (c) the Company's failure to comply with any provision of this Indenture the modification of which would require the consent of the Holder of each Outstanding Note affected) and may rescind and annul the declaration of acceleration resulting from such Defaults or Events of Default (except for any Default or Event of Default arising from (x) the Company's failure to pay principal (including the Fundamental Change Repurchase Price) of, or any interest on, any Notes), (y) the Company's failure to pay or deliver the Settlement Amounts due upon conversion of any Note within the applicable time period set forth under Section 3.03(a) or (z) the Company's failure to comply with any provision of this Indenture the modification of which would require the consent of the Holder of each Outstanding Note affected) and their consequences; *provided*, that no such rescission or annulment will extend to or will affect any subsequent Default or Event of Default or shall impair any right consequent on such Default or Event of Default.

#### **Section 5.03 Additional Interest.**

(a) Notwithstanding Section 5.02, to the extent the Company elects, the sole remedy for an Event of Default under Section 5.01(f) relating to the Company's failure to comply with Section 4.04 (such Event of Default, a "Reporting Event of Default"), will, for the 180 days after the occurrence of such Reporting Event of Default, consist exclusively of the right to receive Additional Interest at an annual rate equal to (i) 0.25% per annum of the principal amount of the Notes then Outstanding commencing on the date on which such a Reporting Event of Default first occurs and ending on the earlier of the date such Reporting Event of Default is cured or waived or the 90<sup>th</sup> day following the occurrence of such Reporting Event of Default and (ii) 0.50% per annum of the principal amount of such Notes outstanding commencing on the 91<sup>st</sup> day following the occurrence of such Reporting Event of Default (if such Reporting Event of Default is continuing on such 91<sup>st</sup> day) and ending on the earlier of the date such Reporting Event of Default is cured or waived or the 180<sup>th</sup> day following the occurrence of such Reporting Event of Default, in each case payable in the same manner and on the same dates as the stated interest payable on the Notes.

(b) Reserved.

(c) In order to elect to pay the Additional Interest as the sole remedy during the first 180 days after the occurrence of a Reporting Event of Default, the Company must notify all Holders of Notes, the Trustee and the Paying Agent in writing of such election on or before the Close of Business on the fifth Business Day prior to the date on which such Reporting Event of Default would otherwise occur. Upon the Company's failure to timely give such notice of such election or to pay the Additional Interest when due, the Notes will be immediately subject to acceleration by declaration of the Trustee or the Holders of at least 25% in aggregate principal amount of the Notes Outstanding as provided in Section 5.02. Nothing in this Section 5.03 shall affect the rights of Holders of Notes in the event of the occurrence of any other Event of Default.

#### **Section 5.04 Waiver of Past Defaults.**

Subject to Section 5.02(b), the Required Holders, by written notice to the Company and to the Trustee, may waive any Default or Event of Default (except for any Default or Event of Default arising from (a) the Company's failure to pay principal of, or any interest on, any Notes), (b) the Company's failure to pay or deliver the Settlement Amounts due upon conversion of any Note within the applicable time period set forth under Section 3.03(a), or (c) the Company's failure to comply with any provision of this Indenture the modification of which would require the consent of the Holder of each Outstanding Note affected) and rescind any acceleration resulting from such Default or Event of Default and its consequences; *provided*, that no such waiver will extend to or will affect any subsequent Default or Event of Default or shall impair any right consequent on such Default or Event of Default.

#### **Section 5.05 Control by Majority.**

The Trustee will not be obligated to exercise any of its rights or powers at the request of the Holders unless such Holders have offered (and if requested, *provided*) to the Trustee security or indemnity satisfactory to the Trustee against any loss, liability or expense. Subject to this Indenture, applicable law and the Trustee's indemnification, the Required Holders may direct in writing the time, method and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust or power conferred on the Trustee with respect to the Notes. The Trustee, however, may refuse to follow any direction that conflicts with law or this Indenture or that the Trustee determines is unduly prejudicial to the rights of any Holder (*provided, however*, that the Trustee shall not have an affirmative duty to determine whether any such direction is unduly prejudicial to any Holder).

#### **Section 5.06 Limitation on Suits.**

Subject to Section 5.07, no Holder will have any right to institute any proceeding under this Indenture, or for the appointment of a receiver or Trustee, or for any other remedy under this Indenture or with respect to the Notes unless:

(a) the Holder has previously delivered to the Trustee written notice of a continuing Event of Default;

(b) the Holders of at least 25% in aggregate principal amount of the then Outstanding Notes deliver to the Trustee a written request that the Trustee pursue a remedy with respect to such Event of Default and have offered (and if requested, *provided*) indemnity or security satisfactory to the Trustee to institute such proceeding as Trustee;

(c) the Trustee has failed to institute a proceeding within 60 days after such notice, request and offer; and

(d) the Trustee has not received from the Holders of a majority in aggregate principal amount of the then Outstanding Notes a direction inconsistent with such written request within 60 days after such notice, request and offer.

#### **Section 5.07 Rights of Holders to Receive Payment and to Convert.**

Notwithstanding anything to the contrary elsewhere in this Indenture, the above limitations set forth under Section 5.06 do not apply to a suit instituted by a Holder for the enforcement of a payment of the principal (including the Fundamental Change Repurchase Price, if applicable), or any accrued and unpaid interest on, any Note, on or after the applicable due date or the right to convert the Note or to receive the Settlement Amounts due upon conversion in accordance with Article 3, and such right to receive any such payment or delivery, as the case may be, on or after the applicable due dates shall not be impaired or affected without the consent of such Holder. Payments of the Fundamental Change Repurchase Price, principal and interest that are not made when due will accrue interest per annum at the then-applicable interest rate from the required payment date.

#### **Section 5.08 Collection of Indebtedness; Suit for Enforcement by Trustee.**

If an Event of Default specified in Section 5.01(a), 5.01(b), 5.01(c) or 5.01(d) occurs and is continuing, the Trustee is authorized to recover judgment in its own name and as trustee of an express trust against the Company for the whole amount of principal of, premium on, interest on, the Fundamental Change Repurchase Price for, and the Settlement Amounts due upon the conversion of, the Notes and such further amount as is sufficient to cover the costs and expenses of collection, including the compensation and reasonable expenses, disbursements and advances of the Trustee, its agents and counsel, as well as any other amounts that may be due under Section 10.06.

#### **Section 5.09 Trustee May Enforce Claims Without Possession of Notes.**

All rights of action and claims under this Indenture or the Notes may be prosecuted and enforced by the Trustee without the possession of any of the Notes or the production thereof in any proceeding relating thereto, and any such proceeding instituted by the Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment shall, after provision for the payment of the compensation, and reasonable expenses, disbursements and advances of the Trustee, its agents and counsel, be for the ratable benefit of the Holders in respect of which such judgment has been recovered.

#### **Section 5.10 Trustee May File Proofs of Claim.**

The Trustee is authorized to file such proofs of claim and other papers or documents as may be necessary or advisable to have the claims of the Trustee and the Holders allowed in any judicial proceedings relative to the Company, its creditors or its property and, unless prohibited by law or applicable regulations, will be entitled to collect, receive and distribute any money or other property payable or deliverable on any such claims, and any custodian in any such judicial proceeding is hereby authorized by each Holder to make such payments to the Trustee, and, in the event that the Trustee consents to the making of such payments directly to the Holders, to pay to the Trustee any amount due to it for the compensation and reasonable expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 10.06. To the extent that the payment of any such compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 10.06 out of the estate in any such proceeding, will be denied for any reason, payment of the same will be secured by a lien on, and is paid out of, any and all distributions, dividends, money, securities and other properties that the Holders may be entitled to receive in such proceeding, whether in liquidation or under any plan of reorganization or arrangement or otherwise. Nothing herein contained will be deemed to authorize the Trustee to authorize or consent to, or to accept or to adopt on behalf of any Holder, any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

### **Section 5.11 Restoration of Rights and Remedies.**

If the Trustee or any Holder has instituted any proceeding to enforce any right or remedy under this Indenture and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Trustee or to such Holder, then and in every such case, subject to any determination in such proceeding, the Company, the Trustee and the Holders shall be restored severally and respectively to their former positions hereunder and thereafter all rights and remedies of the Trustee and the Holders shall continue as though no such proceeding had been instituted.

### **Section 5.12 Rights and Remedies Cumulative.**

Except as otherwise provided with respect to the replacement or payment of mutilated, destroyed, lost or stolen Notes in Section 2.09, no right or remedy herein conferred upon or reserved to the Trustee or to the Holders is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

### **Section 5.13 Delay or Omission Not a Waiver.**

No delay or omission of the Trustee or of any Holder to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article 5 or by law to the Trustee or to the Holders may be exercised from time to time and as often as may be deemed expedient by the Trustee (subject to the limitations contained in this Indenture) or by the Holders, as the case may be.

### **Section 5.14 Priorities.**

If the Trustee collects any money or property pursuant to this Article 5, it will pay out the money or property in the following order:

FIRST: to the Trustee and each Agent, their respective agents and attorneys for amounts due under this Indenture and the Indenture Documents, including payment of all compensation, expenses and liabilities incurred, and all advances made, by the Trustee and the Agents, as applicable, and the costs and expenses of collection;

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SECOND: to the Holders, for any amounts due and unpaid on the principal of, premium on, accrued and unpaid interest on, the Fundamental Change Repurchase Price for, and any cash due upon conversion of, any Note, without preference or priority of any kind, according to such amounts due and payable on all of the Notes; and

THIRD: the balance, if any, to the Company or to such other party as a court of competent jurisdiction directs.

The Trustee may fix a record date and payment date for any payment to the Holders pursuant to this Section 5.14. If the Trustee so fixes a record date and a payment date, at least 15 calendar days prior to such record date, the Trustee will deliver to each Holder (at the Company's cost and expense) a written notice, which notice will state such record date, such payment date and the amount of such payment.

### **Section 5.15 Undertaking for Costs.**

All parties to this Indenture agree, and each Holder, by such Holder's acceptance of a Note, shall be deemed to have agreed, that any court may in its discretion require, in any suit for the enforcement of any right or remedy under this Indenture, or in any suit against the Trustee for any action taken or omitted by it as Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; *provided, however*, that the provisions of this Section 5.15 shall not apply to (i) any suit instituted by the Trustee, (ii) any suit instituted by any Holder, or group of Holders, holding in the aggregate more than 10% in aggregate principal amount of the Notes then Outstanding, (iii) any suit instituted by any Holder for the enforcement of the payment of the principal (including the Fundamental Change Repurchase Price) of, or any interest on, any Note on or after the applicable due date expressed or provided for in this Indenture, (iv) any suit for the enforcement of the right to convert any Note or to receive the Settlement Amounts due upon conversion of any Note in accordance with the provisions of Article 3, or (v) any suit for the enforcement of the right of a beneficial owner to exchange its beneficial interest in a Global Note for a Physical Note if an Event of Default has occurred and is continuing in accordance with Section 2.09.

### **Section 5.16 Waiver of Stay, Extension and Usury Laws.**

The Company covenants that, to the extent that it may lawfully do so, it will not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law wherever enacted, now or at any time hereafter in force, that may affect the covenants or the performance of this Indenture; and the Company, to the extent that it may lawfully do so, hereby expressly waives all benefit or advantage of any such law, and covenants that it will not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Trustee, but will instead suffer and permit the execution of every such power as though no such law has been enacted.

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### **Section 5.17 Notices from the Trustee.**

If a Default occurs and is continuing and is actually known to a Responsible Officer of the Trustee, the Trustee must send notice of such Default to each Holder within 90 days after such Event of Default has occurred or after a Responsible Officer obtains actual knowledge. Except in the case of a Default in the payment of the principal of, premium, or interest on any Note or of a Default in the payment or delivery of the Settlement Amounts due upon conversion of any Note, the Trustee may withhold notice if and so long as the Trustee in good faith determines that withholding notice is in the interests of the Holders (it is being understood that the Trustee does not have an affirmative duty to determine whether any action is not in the interest of any Holder).

## **ARTICLE 6 SATISFACTION AND DISCHARGE**

### **Section 6.01 Discharge of Liability on Notes.**

When (a) the Company shall deliver to the Registrar for cancellation all Notes theretofore authenticated (other than any Notes that have been destroyed, lost or stolen and in lieu of or in substitution for which other Notes shall have been authenticated and delivered) and not theretofore canceled, or (b) all the Notes not theretofore canceled or delivered to the Trustee for cancellation shall have become due and payable (whether on the Maturity Date, on any Fundamental Change Repurchase Price, upon conversion or otherwise) and the Company shall deposit with the Trustee, in trust, or deliver to the Holders, as applicable, an amount of cash (and, to the extent applicable, deliver to the Holders a number of shares of Common Stock to satisfy the Company's obligations with respect to outstanding conversions), sufficient to pay all amounts due on all of such Notes (other

than any Notes that shall have been mutilated, destroyed, lost or stolen and in lieu of or in substitution for which other Notes shall have been authenticated and delivered) not theretofore canceled or delivered to the Trustee for cancellation, including principal and interest due, accompanied, except in the event the Notes are due and payable solely in cash at the Maturity Date or upon an earlier Fundamental Change Repurchase Price, by a verification report as to the sufficiency of the deposited amount from an independent certified accountant or other financial professional reasonably satisfactory to the Trustee, and the Company shall have paid or caused to be paid all other sums payable hereunder by the Company, then this Indenture shall cease to be of further effect (except as to (i) rights hereunder of Holders to receive all amounts owing upon the Notes and the other rights, duties and obligations of Holders, as beneficiaries hereof with respect to the amounts, if any, so deposited with the Trustee and (ii) the rights, obligations, indemnities and immunities of the Trustee hereunder and the obligations of the Company in respect thereof), and the Trustee, on written demand of the Company accompanied by an Officer's Certificate and an Opinion of Counsel and at the cost and expense of the Company, shall execute instruments acknowledging satisfaction and discharge of this Indenture. Notwithstanding the foregoing, the Company hereby agrees to reimburse the Trustee for any costs or expenses thereafter incurred by the Trustee, including the reasonable fees and expenses of its counsel, and to compensate the Trustee for any services thereafter rendered by the Trustee in connection with this Indenture or the Notes. For the avoidance of doubt, upon the satisfaction and discharge of the Indenture, the Holders of the Notes shall no longer have the right to convert their Notes and shall only be entitled to the payments of funds deposited with the Trustee, in trust.

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#### ***Section 6.02 Deposited Monies to Be Held in Trust by Trustee.***

Subject to Section 6.04, all monies deposited with the Trustee pursuant to Section 6.01 shall be held in trust for the sole benefit of the Holders of the Notes, and such monies shall be applied by the Trustee to the payment, either directly or through any Paying Agent (including the Company if acting as its own Paying Agent), to the Holders of the particular Notes for the payment of all sums or amounts due and to become due thereon for principal and interest, if any.

#### ***Section 6.03 Paying Agent to Repay Monies Held.***

Upon the satisfaction and discharge of this Indenture, all excess monies or shares of Common Stock then held by any Paying Agent (if other than the Trustee) shall, upon written request of the Company, be repaid to it or paid to the Trustee, and thereupon such Paying Agent shall be released from all further liability with respect to such amounts.

#### ***Section 6.04 Reinstatement.***

If the Trustee or the Paying Agent is unable to apply any monies in accordance with Section 6.02 by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, the Company's obligations under this Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 6.01 until such time as the Trustee or the Paying Agent is permitted to apply all such amounts in accordance with Section 6.02; *provided, however*, that if the Company makes any payment of interest on, principal of or delivery in respect of any Note following the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of such Notes to receive such payment from the monies held by the Trustee or Paying Agent.

### **ARTICLE 7 SUPPLEMENTAL INDENTURES**

#### ***Section 7.01 Supplemental Indentures Without Consent of Holders.***

Without the consent of any Holder, the Company (when authorized by a Board Resolution), and the Trustee, if applicable, at any time and from time to time, may enter into one or more indentures supplemental hereto or any modifications to the Indenture Documents, in form satisfactory to the Trustee, if applicable, for any of the following purposes:

- (a) to cure any ambiguity, omission, defect or inconsistency in this Indenture or the Notes;
- (b) to evidence the succession by a Successor Company, and to provide for the assumption by a Successor Company of the Company's obligations under this Indenture;
- (c) to add guarantees or guarantors, with respect to the Notes;
- (d) to add to the Company's covenants such further covenants, restrictions or conditions for the benefit of the Holders or surrender any right or power conferred upon the Company by this Indenture;

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- (e) to make any change that does not adversely affect the rights of any Holder; or

(f) upon the occurrence of an event described in Section 3.07(a), solely (i) to provide that such Notes are convertible into Reference Property, subject to the provisions in Sections 3.03 and 3.07, and (ii) to effect the related changes to the terms of such Notes under Section 3.07.

#### ***Section 7.02 Supplemental Indentures With Consent of Holders.***

With the consent of the Required Holders (including, without limitation, consents obtained in connection with a purchase of, or tender or exchange offer for, Notes) and by Act of said Holders delivered to the Company and the Trustee, the Company, the Trustee, if applicable, may amend the Notes or enter into an indenture or indentures supplemental hereto or any modifications to the Indenture Documents for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture or any Indenture Documents or of modifying in any manner the rights of the Holders under this Indenture or any Indenture Documents, and the Required Holders may waive the Company's compliance with any provision herein without notice to the other Holders; *provided, however*, that no such amendment, supplement or waiver shall, without the consent of the Holder of each Outstanding Note affected thereby:

- (a) change the stated Maturity Date of the principal of or any interest on the Notes;
- (b) reduce the principal amount of or interest on the Notes;
- (c) reduce the amount of principal payable upon acceleration of the Maturity Date of any Note;
- (d) change the place or currency of payment of principal of or interest on any Note;

(e) reduce the Fundamental Change Repurchase Price for any Note or change the times at which, or the circumstances under which, the Notes may or will be repurchased by the Company;

(f) impair the right of any Holder to receive payment of principal of and interest on its Notes on or after the due dates therefor or to institute suit for the enforcement of any payment on, or with respect to, such Holder's Notes;

(g) modify the ranking provisions of this Indenture;

(h) make any change that impairs or adversely affects the right of Holders to convert their Notes; or

(i) make any change to the provisions of this Article 7 which require each Holder's consent or in the waiver provisions in Section 5.04 of this Indenture except to increase the percentage required for modification, amendment or waiver or to provide for consent of each affected Holder of Outstanding Notes.

It shall not be necessary for any Act or consent of Holders under this Section 7.02 to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such Act or consent shall approve the substance thereof.

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### **Section 7.03 Notice of Amendment or Supplement.**

After an amendment or supplement under this Article 7 becomes effective, the Company shall provide to the Holders (with a copy to the Trustee) a written notice briefly describing such amendment or supplement. However, the failure to give such notice to all the Holders, or any defect in the notice, shall not impair or affect the validity of the amendment or supplement.

### **Section 7.04 Trustee to Sign Amendments, Etc.**

The Trustee, as applicable, shall sign any amendment or supplement authorized pursuant to this Article 7 if the amendment or supplement does not adversely affect the rights, duties, liabilities, immunities or indemnities of the Trustee, as applicable. If it does, the Trustee, as applicable, may, but need not, sign it. In signing or refusing to sign such amendment or supplement, the Trustee shall receive, and shall be fully protected in conclusively relying upon, an Officer's Certificate and an Opinion of Counsel provided at the expense of the Company providing that such amendment or supplement is authorized or permitted by this Indenture and any applicable Indenture Documents and, with respect to such Opinion of Counsel, such amendment or supplement is a legal, valid and binding obligation of the Company enforceable against the Company in accordance with its terms.

## **ARTICLE 8 SUCCESSOR COMPANY**

### **Section 8.01 Company May Consolidate, Etc. on Certain Terms.**

Subject to the provisions of Section 8.03, the Company shall not consolidate with, enter into a binding share exchange with, or merge with or into, another Person or sell, assign, convey, transfer, lease or otherwise dispose, in one transaction or a series of transaction, all or substantially all of the assets of the Company and its Subsidiaries, taken as a whole, to another Person (a "**Business Combination Event**"), unless:

(a) the resulting, surviving transferee or successor Person (the "**Successor Company**"), if not the Company, is a corporation organized and existing under the laws of the U.S., any state of the U.S. or the District of Columbia and at or before the effective time of such Business Combination Event, the Successor Company expressly assumes, by supplemental indenture, joinder, amendment or otherwise, executed and delivered to the Trustee, in form satisfactory to the Trustee, all of the obligations of the Company under the Notes, this Indenture and the other Indenture Documents;

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(b) immediately after giving effect to such Business Combination Event, no Default or Event of Default shall have occurred and be continuing under this Indenture with respect to the Notes; and

(c) all other conditions specified in this Article 8 are met.

Upon any such Business Combination Event, the Successor Company (if not the Company) shall succeed to, and may exercise every right and power of the Company under this Indenture.

### **Section 8.02 Successor Corporation to Be Substituted.**

In case of any such Business Combination Event and upon the assumption by the Successor Company (if other than the Company), by supplemental indenture, executed and delivered to the Trustee and satisfactory in form to the Trustee, of the due and punctual payment of the principal of and premium (including any Fundamental Change Repurchase Price), if any, and accrued and unpaid interest, if any, on all of the Notes, the due and punctual payment or delivery of any Settlement Amount due upon conversion of the Notes and the due and punctual performance of all of the covenants and conditions of this Indenture and the other Indenture Documents to be performed by the Company under this Indenture and the other Indenture Documents, such Successor Company shall succeed to and be substituted for, and may exercise every right and power of, the Company under this Indenture, with the same effect as if it had been named herein as the party of the first part; *provided, however*, that in the case of a sale, assignment, conveyance, transfer, lease or other disposition to one or more of its Subsidiaries of all or substantially all of the properties and assets of the Company, the Notes will remain convertible based on the Settlement Amount, in accordance with Section 3.03, but subject to adjustment (if any) in accordance with Section 3.06. Such Successor Company thereupon may cause to be signed, and may issue either in its own name or in the name of the Company any or all of the Notes issuable hereunder which theretofore shall not have been signed by the Company and delivered to the Trustee; and, upon the order of such Successor Company instead of the Company and subject to all the terms, conditions and limitations in this Indenture prescribed, the Trustee shall authenticate and shall deliver, or cause to be authenticated and delivered, any Notes that previously shall have been signed and delivered by the Officers of the Company to the Trustee for authentication, and any Notes that such Successor Company thereafter shall cause to be signed and delivered to the Trustee for that purpose. All the Notes so issued shall in all respects have the same legal rank and benefit under this Indenture as the Notes theretofore or thereafter issued in accordance with the terms of this Indenture as though all of such Notes had been issued at the date of the execution hereof. In the event of such Business Combination Event (but not in the case of a lease), the Person named as the "Company" in the first paragraph of this Indenture or any successor that shall thereafter have become such in the manner prescribed in this Article 8 may be dissolved, wound up and liquidated at any time thereafter and, except in the case of a lease, such Person shall be released from its liabilities as obligor and maker of the Notes and from its obligations under this Indenture.

In case of any such Business Combination Event, such changes in phraseology and form (but not in substance) may be made in the Notes thereafter to be issued as may be appropriate.

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### **Section 8.03 Officer's Certificate and Opinion of Counsel to Be Given to Trustee.**

In the case of any such Business Combination Event pursuant to Section 8.01, at or before the effective time of the Business Combination Event, the Trustee shall receive an Officer's Certificate and an Opinion of Counsel stating that any such Business Combination Event and any such assumption and, if a supplemental indenture, joinder, amendment or other documentation is required in connection with such transaction, such supplemental indenture, joinder, amendment or other documentation, complies with the provisions of this Indenture and an Opinion of Counsel stating that any such supplemental indenture, joinder, amendment or other documentation is the valid, binding and enforceable obligation of the Successor Company.

## **ARTICLE 9 REDEMPTION AT ELECTION OF COMPANY**

### **Section 9.01 Redemption at Election of Company.**

(a) Subject to the provisions of this Article 9, the Company has the right, at its election, to redeem all, or any portion of the Notes, at any time, and from time to time, on or after June 15, 2019 and on or before the 20<sup>th</sup> VWAP Trading Day immediately before the Maturity Date, but only if (i) (A) it would settle the conversion of any Notes on the date of the applicable notice of redemption pursuant to Section 3.03(c) or (B) the shares of Common Stock issuable upon conversion of any Notes on the date of the applicable notice of redemption would be Freely Tradable as of such date and (ii) the Daily VWAP for at least 20 VWAP Trading Days (whether or not consecutive) out of 30 consecutive VWAP Trading Days ending on, and including the VWAP Trading Day immediately before the applicable notice of redemption, exceeds 150% of the Conversion Price (subject to adjustment for reverse and forward stock splits, stock dividends, stock combinations and other similar transactions of the Common Stock that occur after the Issue Date). The redemption price for any redemption of Notes pursuant to this Article 9 shall be equal to 100% of the principal amount thereof, plus accrued and unpaid interest to the redemption date.

(b) Notwithstanding the foregoing, any Holder that elects to convert its Notes following delivery of a Redemption Notice and prior to the applicable redemption date shall be entitled to receive, in respect of such conversion, a Conversion Rate equal to the greater of (i) the As-Adjusted Coupon Make-Whole Conversion Rate and (ii) the As-Adjusted Table Make-Whole Conversion Rate, in each case determined as if the redemption constituted a Make-Whole Fundamental Change with a Make-Whole Fundamental Change Effective Date equal to the date of the Redemption Notice and a Stock Price equal to the Closing Sale Price of the Common Stock on the Trading Day immediately preceding the date of the Redemption Notice, and the provisions of Section 3.06 (including Section 3.06(c)) shall apply mutatis mutandis to any such conversion.

### **Section 9.02 Election to Redeem; Notices to Registrar, Trustee and Paying Agents.**

If the Company elects to redeem Notes pursuant to Section 9.01, at least 10 days prior to the redemption date but not more than 65 days before the redemption date, the Company shall notify the Registrar, the Trustee, and the relevant Paying Agent in writing of the redemption date, the principal amount of the Notes to be redeemed and the conditions precedent to such redemption (if any), and deliver to the Trustee an Officer's Certificate stating that such redemption will comply with the conditions contained in the terms of this Article 9. Except as provided in the penultimate paragraph of Section 9.04 and the first proviso in Section 9.05, notice given to the Registrar, the Trustee and the relevant Paying Agent pursuant to this Section 9.02 may not be revoked after the time that notice is given to Holders pursuant to Section 9.04.

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### **Section 9.03 Selection by Trustee of Notes to be Redeemed.**

If less than all of the Notes are to be redeemed at any time, selection of Notes for redemption will be made by the Trustee in compliance with the requirements of the principal national securities exchange, if any, on which such Notes to be redeemed are listed or, if such Notes are not so listed, on a pro rata basis, or by lot, or by such other method as the Trustee shall deem appropriate (and in the case of global Notes, in accordance with the Applicable Procedures); *provided* that no Notes with a principal amount of \$1,000 or less shall be redeemed in part. For all purposes of this Indenture unless the context otherwise requires, provisions of this Indenture that apply to Notes called for redemption also apply to portions of Notes called for redemption. Redemption amounts shall only be paid upon presentation and surrender of any such Notes to be redeemed to the Trustee at its Corporate Trust Office.

### **Section 9.04 Notice of Redemption.**

At least 10 days, and no more than 60 days, before a redemption date, the Company shall send, or cause to be sent, a notice of redemption electronically or by first-class mail to each Holder to be redeemed at its last address as the same appears on the registry books maintained by the Registrar pursuant to Section 2.06 or electronically in the case of Global Notes.

The notice shall identify the Notes to be redeemed (including the CUSIP and/or ISIN numbers thereof) and shall state:

(a) the redemption date;

(b) the redemption price and accrued interest to be paid;

(c) if any Note is being redeemed in part, the portion of the principal amount of such Note to be redeemed and that, after the redemption date and upon surrender of such Note, a new Note or Notes of the same series in principal amount equal to the unredeemed portion will be issued;

(d) the name and address of the Paying Agent;

(e) that Notes called for redemption must be surrendered to the Paying Agent to collect the redemption price;

(f) that unless the Company defaults in making the redemption payment or the Paying Agent is prohibited from making such payment pursuant to the terms of this Indenture, interest on Notes called for redemption ceases to accrue on and after the redemption date;

(g) the aggregate principal amount of such Notes that are being redeemed;

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(h) any conditions precedent to such redemption in reasonable detail; and

(i) that no representation is made as to the correctness or accuracy of the CUSIP or ISIN numbers printed in the notice or on the Notes, and that reliance may be placed only on the other identification numbers printed on the Notes.

At the Company's written request made at least 10 Business Days prior to the date on which notice is to be given (unless a shorter period shall be agreed to in writing by the Trustee), together with the notice of redemption to be given, the Trustee shall give the notice of redemption in the Company's name and at the Company's sole expense. The Company may provide in such notice that payment of the redemption price and performance of the Company's obligations with respect to such redemption may be performed by another Person.

If any notice of redemption is subject to one or more conditions precedent, any such redemption may be rescinded in whole and not in part at any time prior to the close of business on the Business Day prior to the redemption date if the Company delivers an Officer's Certificate to the Trustee describing the failure of the condition in reasonable detail and rescinding the redemption. The Trustee shall promptly provide a copy of such Officer's Certificate to the Holders in the same manner in which the notice of redemption was given.

The Company's actions and determinations in determining the redemption price shall be conclusive and binding for all purposes, absent manifest error.

#### **Section 9.05 Effect of Notice of Redemption.**

Once the notice of redemption described in Section 9.04 is sent and subject to the proviso to this sentence, Notes called for redemption become due and payable on the redemption date and at the redemption price plus interest accrued to the redemption date; *provided, however*, that any redemption and notice thereof pursuant to this Indenture may, in the Company's discretion, be subject to the satisfaction of one or more conditions precedent described in such notice, including, but not limited to, the completion of any related transaction, and in which case if and/or to the extent such condition(s) precedent is/are not satisfied the Company shall have no obligation to redeem Notes on such redemption date. Upon surrender to the Paying Agent, such Notes shall be paid at the redemption price, plus interest accrued to the redemption date; *provided* that if the redemption date is after a regular record date and on or prior to the interest payment date, the accrued interest shall be payable to the Holder of the redeemed Notes registered on the relevant record date; and *provided, further*, that if a redemption date is not a Business Day, payment shall be made on the next succeeding Business Day and no interest shall accrue for the period from such Redemption Date to such succeeding Business Day.

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#### **Section 9.06 Deposit of Redemption Price.**

On or prior to 10:00 A.M., New York City time, on the applicable redemption date, the Company shall deposit with the Paying Agent U.S. Dollars or other applicable currency sufficient to pay the redemption price of, including premium, if any, and accrued interest on any and all Notes to be redeemed on that date (other than Notes or portions thereof called for redemption on that date which have been delivered by the Company to the Trustee for cancellation).

On and after any redemption date, if money sufficient to pay the redemption price of, including premium, if any, and accrued interest on all Notes called for redemption shall have been made available in accordance with the immediately preceding paragraph, the Notes called for redemption will cease to accrue interest and the only right of the Holders will be to receive payment of the redemption price of and, subject to the second proviso in Section 9.05, accrued and unpaid interest on the Notes to the redemption date. If any Note surrendered for redemption shall not be so paid, interest will be paid, from the redemption date until such redemption payment is made, on the unpaid principal of the Note and (to the extent permitted by applicable law) any interest not paid on such unpaid principal, in each case at the rate and in the manner provided in the Note.

#### **Section 9.07 Notes Redeemed in Part.**

Upon surrender of a Note that is redeemed in part, the Company shall execute and, upon receipt of a written order of the Company in the form of an Officer's Certificate, the Trustee shall authenticate for the Holder thereof a new Note equal in principal amount to the unredeemed portion of the Note surrendered.

#### **Section 9.08 Covenant to Comply with Applicable Laws Upon Redemption of Notes.**

In connection with any redemption of Notes pursuant to this Article 9, the Company will, if required:

- (a) comply with the provisions of Rule 13e-4, Rule 14e-1 and any other tender offer rules under the Exchange Act that may then be applicable; and
- (b) file a Schedule TO or any other required schedule under the Exchange Act;

in each case, so as to permit the rights and obligations under this Article 9 to be exercised in the time and in the manner specified in this Article 9. To the extent that any securities laws and regulations conflict with the provisions of this Indenture with respect to the repurchase of Notes, the Company shall be deemed not to be in breach of this Indenture as a result of compliance therewith.

The Company may appoint a tender agent in connection with such redemption, in which case such tender agent shall be the Paying Agent in connection with such redemption.

### **ARTICLE 10 THE TRUSTEE**

#### **Section 10.01 Duties and Responsibilities of Trustee.**

(a) The Trustee, prior to the occurrence of an Event of Default and after the curing of all Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture and no implied covenants or obligations shall be read into this Indenture against the Trustee. In case an Event of Default has occurred (which has not been cured or waived), the Trustee shall exercise such of the rights and powers vested in it by this Indenture and use the same degree of care in its exercise as a prudent person would use in the conduct of his or her own affairs.

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- (b) Prior to the occurrence of an Event of Default and after the curing or waiving of all Events of Default which may have occurred:

- (i) the duties and obligations of the Trustee shall be determined solely by the express provisions of this Indenture and applicable law, and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Indenture and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

- (ii) in the absence of gross negligence on the part of the Trustee, the Trustee may conclusively rely as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; but, in the case of any such certificates or opinions which by any provisions hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Indenture (but need not confirm or investigate the accuracy of any mathematical calculations or other

facts stated therein).

(c) No provision of this Indenture shall be construed to relieve the Trustee from liability for its own grossly negligent action, its own grossly negligent failure to act or its own willful misconduct, except that:

(i) this subsection (c) does not limit the effect of this Section 10.01;

(ii) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer or Officers of the Trustee, unless the Trustee was grossly negligent in ascertaining the pertinent facts; and

(iii) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the written direction of the Required Holders determined as provided in Section 1.03 relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee under this Indenture;

(d) Whether or not therein provided, every provision of this Indenture relating to the conduct or affecting the liability of, or affording protection to, the Trustee shall be subject to the provisions of this Section 10.01 and Section 10.02.

(e) The Trustee shall not be liable in respect of any payment (as to the correctness or calculation of amount, entitlement to receive or any other matters relating to payment) or notice effected by the Company or any Paying Agent or any records maintained by any co-Registrar with respect to the Notes.

(f) If any party fails to deliver a notice relating to an event the fact of which, pursuant to this Indenture, requires notice to be sent to the Trustee, the Trustee may conclusively rely on its failure to receive such notice as reason to act as if no such event occurred.

(g) None of the provisions contained in this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties or in the exercise of any of its rights or powers if there is reasonable ground for believing that the repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

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#### **Section 10.02 *Rights of the Trustee.***

(a) The Trustee may conclusively rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, judgment, bond, debenture, note, coupon or other evidence of indebtedness or other paper or document (whether in its original, electronic or facsimile form) believed by it in good faith to be genuine and to have been signed or presented by the proper party or parties, not only as to due execution, validity and effectiveness, but also as to the truth and accuracy of any information contained therein.

(b) Any request, direction, order or demand of the Company mentioned herein shall be sufficiently evidenced by an Officer's Certificate (unless other evidence in respect thereof be herein specifically prescribed); and any resolution of the Board of Directors may be evidenced to the Trustee by a Board Resolution.

(c) The Trustee may consult with counsel of its own selection and any advice or Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken or omitted by it hereunder in good faith and in accordance with such advice or Opinion of Counsel.

(d) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request, order or direction of any of the Holders pursuant to the provisions of this Indenture (including upon the occurrence and during the continuance of an Event of Default), unless such Holders shall have offered (and if requested, provided) to the Trustee indemnity or security satisfactory to the Trustee against any loss, expenses and liabilities which may be incurred therein or thereby.

(e) The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, judgment, bond, debenture or other evidence of indebtedness or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Company, personally or by agent or attorney (at the reasonable expense of the Company and shall incur no liability of any kind by reason of such inquiry or investigation).

(f) The Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed by it with due care hereunder.

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(g) The Trustee shall not be liable for any action taken, suffered, or omitted to be taken by it in good faith and reasonably believed by it to be authorized or within the discretion or rights or powers conferred upon it by this Indenture.

(h) In no event shall the Trustee be responsible or liable for special, indirect, consequential, incidental or punitive loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

(i) The Trustee shall not be deemed to have notice of any Default or Event of Default unless a Responsible Officer of the Trustee has actual knowledge thereof or unless written notice of any event which is in fact such a default is received by a Responsible Officer of the Trustee at the Corporate Trust Office of the Trustee, and such notice references the Notes and the Indenture.

(j) The rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, and other Person employed to act hereunder.

(k) The Trustee shall not be required to give any bond or surety in respect of the performance of its powers and duties hereunder.

(l) The Trustee may request that the Company deliver an Officer's Certificate setting forth the names of individuals and/or titles of officers authorized at such time to take specified actions pursuant to this Indenture.

(m) The permissive authorizations, entitlements, powers and rights granted to the Trustee in this Indenture shall not be construed as duties.

(n) The Trustee shall not be obligated to take possession of any Common Stock, whether upon payment of Stock Interest, conversion or in connection with any discharge of this Indenture pursuant to Article 3 hereof, but shall satisfy its obligation as Conversion Agent by working through the stock transfer agent of the Company from time to time as directed by the Company.

(o) The Trustee shall have no obligation to monitor the terms of or enforce the Registration Rights Agreement.

#### **Section 10.03 Trustee's Disclaimer.**

The recitals contained herein and in the Notes (except in the Trustee's certificate of authentication) shall be taken as the statements of the Company, and the Trustee assumes no responsibility for the correctness of the same. The Trustee makes no representations as to the validity or sufficiency of this Indenture, the Notes or any other Indenture Document. The Trustee shall not be accountable for the use or application by the Company of any Notes or the proceeds of any Notes authenticated and delivered by the Trustee under this Indenture and the Trustee shall not be responsible for any statement of the Company in this Indenture or in any document issued in connection with the sale of the Notes.

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#### **Section 10.04 Trustee or Agents May Own Notes.**

The Trustee or any Agent, in its individual or any other capacity, may become the owner or pledgee of Notes with the same rights it would have if it were not Trustee or Agent.

#### **Section 10.05 Monies to be Held in Trust.**

Subject to the provisions of Section 6.02, all monies and properties received by the Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received. Money held by the Trustee in trust hereunder need not be segregated from other funds except to the extent required by law. The Trustee shall be under no liability for interest on or the investment of any money received by it hereunder except as may be agreed in writing from time to time by the Company and the Trustee.

#### **Section 10.06 Compensation and Expenses of Trustee.**

The Company covenants and agrees to pay to the Trustee and Agent from time to time, and the Trustee and Agent shall be entitled to, such compensation for all services rendered by it hereunder in any capacity (which shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust) as mutually agreed to from time to time in writing between the Company and the Trustee and Agent, and the Company will pay or reimburse the Trustee and Agent upon its request for all reasonable expenses, disbursements and advances reasonably incurred or made by the Trustee and Agent in accordance with any of the provisions of this Indenture or any other Indenture Document (including the reasonable compensation and the expenses and disbursements of its counsel and of all Persons not regularly in its employ) except any such expense, disbursement or advance as may arise from its own gross negligence or willful misconduct, as determined by a final order of a court of competent jurisdiction.

The Company also covenants to indemnify each of the Trustee and the Agents (and their respective officers, directors and employees), in any capacity under this Indenture and their respective agents for, and to hold each of them harmless from and against, any and all loss, liability, action, suit, claim, damage, cost or expense incurred without gross negligence or willful misconduct, as determined by a final order of a court of competent jurisdiction on its own part and arising out of or in connection with the acceptance or administration of this trust and the performance of its duties and/or the exercise of its rights hereunder or in any other capacity hereunder or under any Indenture Document, including the costs and expenses (including attorneys' fees) of defending itself against any claim (whether asserted by the Company, a Holder or any other Person) of liability in the premises, including those incurred with respect to enforcement of its right to indemnify hereunder. The Trustee and the Agents shall notify the Company promptly of any third party claim for which it may seek indemnity. Failure by the Trustee and the Agents to so notify the Company shall not relieve the Company of its obligations hereunder. The Company shall defend such claim and the Trustee and the Agents shall cooperate in the defense. The Trustee and the Agents may have separate counsel and the Company shall pay the reasonable fees and expenses of such counsel. The Company need not pay for any settlement made without its consent (such consent not to be unreasonably withheld).

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The obligations of the Company under this Section 10.06 to compensate or indemnify the Trustee, and the Agents and to pay or reimburse the Trustee for expenses, disbursements and advances shall be secured by a first lien prior to that of the Notes upon all property and funds held or collected by the Trustee as such, except funds held in trust for the benefit of the Holders of particular Notes. The obligation of the Company under this Section 10.06 shall survive the payment of the Notes, the satisfaction and discharge of this Indenture and/or the resignation or removal of the Trustee and Agent.

When the Trustee, any Agent, and any of their respective agents incur expenses or render services after an Event of Default specified in Section 5.01(i) and 5.01(j) with respect to the Company occurs, the expenses and the compensation for the services are intended to constitute administrative expenses for purposes of priority under any bankruptcy, insolvency or similar laws.

#### **Section 10.07 Officer's Certificate or Opinion of Counsel as Evidence.**

Subject to Section 10.01, whenever in the administration of the provisions of this Indenture the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or omitting any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively proved and established by an Officer's Certificate and/or Opinion of Counsel delivered to the Trustee.

#### **Section 10.08 Conflicting Interests of Trustee.**

If the Trustee has or shall acquire a conflicting interest within the meaning of the Trust Indenture Act, the Trustee shall either eliminate such interest or resign, to the extent and in the manner provided by, and subject to the provisions of, this Indenture.

#### **Section 10.09 Eligibility of Trustee.**

There shall at all times be a Trustee hereunder which shall be a Person that is eligible pursuant to the Trust Indenture Act to act as such and has a combined capital and surplus of at least \$50,000,000 (or if such Person is a member of a bank holding company system, its bank holding company shall have a combined capital and surplus of at least \$50,000,000). If such Person publishes reports of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority, then for the purposes of this Section 10.09 the combined capital and surplus of such Person shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section 10.09, it shall resign immediately in the manner and with the effect hereinafter specified in this Article.

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#### **Section 10.10 Resignation or Removal of Trustee.**

(a) The Trustee may at any time resign by giving 30 days' prior written notice of such resignation to the Company and to the Holders of Notes. Upon receiving such notice of resignation, the Company shall promptly appoint a successor trustee by written instrument, in duplicate, executed by order of the Board of Directors, one copy of which instrument shall be delivered to the resigning Trustee and one copy to the successor trustee. If no successor trustee shall have been so appointed and have accepted appointment thirty (30) days after such notice of resignation is given to the Company and the Holders, the resigning Trustee may, upon ten (10) Business Days' notice to the Company and the Holders, petition, at the expense of the Company, any court of competent jurisdiction for the appointment of a successor trustee, or, if any Holder who has been a bona fide Holder of a Note or Notes for at least six (6) months may, subject to the provisions of Section 5.15, on behalf of himself and all others similarly situated, petition any such court for the appointment of a successor trustee. Such court may thereupon, after such notice, if any, as it may deem proper and prescribe, appoint a successor trustee.

(b) In case at any time any of the following shall occur:

(i) the Trustee shall fail to comply with Section 10.08 after written request therefor by the Company or by any Holder who has been a bona fide Holder of a Note or Notes for at least six (6) months; or

(ii) the Trustee shall cease to be eligible in accordance with the provisions of Section 10.09 and shall fail to resign after written request therefor by the Company or by any such Holder; or

(iii) the Trustee shall become incapable of acting, or shall be adjudged a bankrupt or insolvent, or a receiver of the Trustee or of its property shall be appointed, or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation;

then, in any such case, the Company may remove the Trustee by 30 days' written notice and appoint a successor trustee by written instrument, in duplicate, executed by order of the Board of Directors, one copy of which instrument shall be delivered to the Trustee so removed and one copy to the successor trustee, or, subject to the provisions of Section 5.15, any Holder who has been a bona fide Holder of a Note or Notes for at least six (6) months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor trustee; *provided, however*, that if no successor Trustee shall have been appointed and have accepted appointment thirty (30) days after either the Company or the Holders has removed the Trustee, the Trustee so removed may petition at the Company's expense any court of competent jurisdiction for an appointment of a successor trustee. Such court may thereupon, after such notice, if any, as it may deem proper and prescribe, remove the Trustee and appoint a successor trustee.

(c) The Required Holders may at any time remove the Trustee upon 30 days' prior written notice and nominate a successor trustee which shall be deemed appointed as successor trustee unless, within ten (10) days after notice to the Company of such nomination, the Company objects thereto, in which case the Trustee so removed or any Holder, or if such Trustee so removed or any Holder fails to act, the Company, upon the terms and conditions and otherwise as in Section 10.10(a) provided, may petition (at the expense of the Company) any court of competent jurisdiction for an appointment of a successor trustee.

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(d) Any resignation or removal of the Trustee and appointment of a successor trustee pursuant to any of the provisions of this Section 10.10 shall become effective upon acceptance of appointment by the successor trustee as provided in Section 10.11.

#### **Section 10.11 Acceptance by Successor Trustee.**

Any successor trustee appointed as provided in Section 10.10 shall execute, acknowledge and deliver to the Company and to its predecessor trustee an instrument accepting such appointment hereunder, and thereupon the resignation or removal of the predecessor trustee shall become effective and such successor trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, duties and obligations of its predecessor hereunder, with like effect as if originally named as trustee herein; but, nevertheless, on the written request of the Company or of the successor trustee, the trustee ceasing to act shall, upon payment of any amount then due it pursuant to the provisions of Section 10.06, execute and deliver an instrument transferring to such successor trustee all the rights and powers of the trustee so ceasing to act. Upon request of any such successor trustee, the Company shall execute any and all instruments in writing for more fully and certainly vesting in and confirming to such successor trustee all such rights and powers. Any trustee ceasing to act shall, nevertheless, retain a lien upon all property and funds held or collected by such trustee as such.

No successor trustee shall accept appointment as provided in this Section 10.11 unless, at the time of such acceptance, such successor trustee shall be qualified under the provisions of Section 10.08 and be eligible under the provisions of Section 10.09.

Upon acceptance of appointment by a successor trustee as provided in this Section 10.11, the Company (or the former trustee, at the written direction of the Company) shall give or cause to be given notice of the succession of such trustee hereunder to the Holders of Notes in accordance with Section 13.07. If the Company fails to give such notice within ten (10) days after acceptance of appointment by the successor trustee, the successor trustee shall cause such notice to be given at the expense of the Company.

#### **Section 10.12 Succession by Merger, Etc.**

Any entity into which the Trustee may be merged or exchanged or with which it may be consolidated, or any corporation resulting from any sale, merger, exchange or consolidation to which the Trustee shall be a party, or any entity succeeding to all or substantially all of the corporate trust business of the Trustee (including any trust created by this Indenture), shall be the successor to the Trustee hereunder without the execution or filing of any paper or any further act on the part of any of the parties hereto, *provided* that in the case of any entity succeeding to all or substantially all of the corporate trust business of the Trustee, such corporation shall be qualified under the provisions of Section 10.08 and eligible under the provisions of Section 10.09.

In case at the time such successor to the Trustee shall succeed to the trusts created by this Indenture, any of the Notes shall have been authenticated but not delivered, any such successor to the Trustee may adopt the certificate of authentication of any predecessor trustee or authenticating agent appointed by such predecessor trustee, and deliver such Notes so authenticated; and in case at that time any of the Notes shall not have been authenticated, any successor to the Trustee or any authenticating agent appointed by such successor trustee may authenticate such Notes in the name of the successor trustee; and in all such cases such certificates shall have the full force that is provided in the Notes or in this Indenture; *provided, however*, that the right to adopt the certificate of authentication of any predecessor Trustee or authenticate Notes in the name of any predecessor Trustee shall apply only to its successor or successors by merger, exchange or consolidation.

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#### **Section 10.13 Preferential Collection of Claims.**

To the extent that this Indenture has been qualified under the Trust Indenture Act, if and when the Trustee shall be or become a creditor of the Company (or any other obligor upon the Notes), the Trustee shall be subject to the provisions of the Trust Indenture Act regarding the collection of the claims against the Company (or any such other obligor).

#### Section 10.14 Trustee's Application for Instructions from the Company.

Any application by the Trustee for written instructions from the Company (other than with regard to any action proposed to be taken or omitted to be taken by the Trustee that affects the rights of the Holders of the Notes under this Indenture) may, at the option of the Trustee, set forth in writing any action proposed to be taken or omitted by the Trustee under this Indenture and the date on and/or after which such action shall be taken or such omission shall be effective. The Trustee shall not be liable for any action taken by, or omission of, the Trustee in accordance with a proposal included in such application on or after the date specified in such application (which date shall not be less than three (3) Business Days after the date any Officer of the Company actually receives such application, unless any such Officer shall have consented in writing to any earlier date) unless prior to taking any such action (or the effective date in the case of an omission), the Trustee shall have received written instructions in response to such application specifying the action to be taken or omitted.

### ARTICLE 11 REPURCHASE OF NOTES AT OPTION OF HOLDERS

#### Section 11.01 Repurchase at Option of Holders Upon a Fundamental Change.

(a) If a Fundamental Change occurs at any time prior to the Maturity Date, each Holder shall have the right, at such Holder's option, to require the Company to repurchase for cash all of such Holder's Notes, or any portion of the principal amount thereof that is equal to \$1,000 or an integral multiple of \$1,000.00 in excess thereof, on the date (the "**Fundamental Change Repurchase Date**") specified by the Company that is not less than 20 nor more than 35 calendar days following the date of the Fundamental Change Company Notice (subject to extension to comply with applicable law), at a repurchase price equal to 100% of the principal amount thereof, plus accrued and unpaid interest thereon to, but not including, the Fundamental Change Repurchase Date (the "**Fundamental Change Repurchase Price**"), unless the Fundamental Change Repurchase Date falls after a Regular Record Date but on or prior to the Interest Payment Date to which such Regular Record Date relates, in which case the Company shall instead pay the full amount of accrued and unpaid interest to Holders of record as of such Regular Record Date, and the Fundamental Change Repurchase Price shall be equal to 100% of the principal amount of Notes to be purchased pursuant to this Article 11.

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(b) Repurchases of Notes under this Section 11.01 shall be made, at the option of the Holder thereof, upon:

(i) delivery to the Paying Agent by a Holder of a duly completed notice (the "**Fundamental Change Repurchase Notice**") in the form set forth in Attachment 4 to the Form of Note attached hereto as Exhibit A, if the Notes are Physical Notes, or in compliance with the Applicable Procedures for surrendering interests in Global Notes, if the Notes are Global Notes, in each case on or before the close of business on the Business Day immediately preceding the Fundamental Change Repurchase Date; and

(ii) delivery of the Notes, if the Notes are Physical Notes, to the Paying Agent on or before the close of business on the Business Day immediately preceding the Fundamental Change Repurchase Date (together with all necessary endorsements for transfer) at the Corporate Trust Office of the Paying Agent, or book-entry transfer of the Notes, if the Notes are Global Notes, in compliance with the Applicable Procedures, in each case such delivery being a condition to receipt by the Holder of the Fundamental Change Repurchase Price therefor.

The Fundamental Change Repurchase Notice in respect of any Notes to be repurchased shall state:

- A. in the case of Physical Notes, the certificate numbers of the Notes to be delivered for repurchase;
- B. the portion of the principal amount of Notes to be repurchased, which must be \$1,000 or an integral multiple of \$1,000.00 in excess thereof; and
- C. that the Notes are to be repurchased by the Company pursuant to the applicable provisions of the Notes and this Indenture;

*provided, however*, that if the Notes are Global Notes, the Fundamental Change Repurchase Notice must comply with the Applicable Procedures.

Notwithstanding anything herein to the contrary, any Holder delivering to the Paying Agent the Fundamental Change Repurchase Notice contemplated by this Section 11.01 shall have the right to withdraw, in whole or in part, such Fundamental Change Repurchase Notice at any time prior to the close of business on the Business Day immediately preceding the Fundamental Change Repurchase Date by delivery of a written notice of withdrawal to the Paying Agent in accordance with Section 11.02.

If a Holder has already delivered a Fundamental Change Repurchase Notice with respect to a Note, such Holder may not surrender such Note for conversion until such Holder has validly withdrawn such Fundamental Change Repurchase Notice (or, in the case of a Global Note, has complied with the Applicable Procedures with respect to such a withdrawal) in accordance with the terms of Section 11.02.

The Paying Agent shall promptly notify the Company of the receipt by it of any Fundamental Change Repurchase Notice or written notice of withdrawal thereof.

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(c) On or before the 20<sup>th</sup> calendar day after the occurrence of a Fundamental Change, the Company shall provide to all Holders of Notes, the Trustee, the Conversion Agent (if other than the Trustee) and the Paying Agent (if other than the Trustee) a written notice (the "**Fundamental Change Company Notice**") of the occurrence of the Fundamental Change and of the repurchase right at the option of the Holders arising as a result thereof. In the case of Physical Notes, such notice shall be by first class mail or, in the case of Global Notes, such notice shall be delivered in accordance with the Applicable Procedures.

Each Fundamental Change Company Notice shall specify:

- (i) the events causing the Fundamental Change;
- (ii) the effective date of the Fundamental Change;
- (iii) the last date on which a Holder may exercise the repurchase right pursuant to this Article 11;
- (iv) the Fundamental Change Repurchase Price;
- (v) the Fundamental Change Repurchase Date;
- (vi) the name and address of the Paying Agent and the Conversion Agent (if other than the Trustee), if applicable;

(vii) the Conversion Rate and any adjustments to the Conversion Rate;

(viii) that the Notes with respect to which a Fundamental Change Repurchase Notice has been delivered by a Holder may be converted only if the Holder validly withdraws the Fundamental Change Repurchase Notice in accordance with the terms of this Indenture (or, in the case of a Global Note, complies with the Applicable Procedures with respect to such a withdrawal);

(ix) the procedures that Holders must follow to require the Company to repurchase their Notes; and

(x) the CUSIP numbers and the statement required in Section 2.14 hereto.

Simultaneously with providing such Fundamental Change Company Notice, the Company shall issue a press release containing such information, disclose the information in a Current Report on Form 6-K or post such information on the Company's website.

At the Company's written request, the Trustee shall give such notice in the Company's name and at the Company's expense; *provided, however*, that, in all cases, the text of such Fundamental Change Company Notice shall be prepared by the Company. In such a case, the Company shall deliver such notice to the Trustee at least three Business Days prior to the date that the notice is required to be given to the Holders (unless a shorter notice period shall be agreed to by the Trustee), together with Officer's Certificate requesting that the Trustee give such notice.

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Such notice shall be delivered to the Trustee, to the Paying Agent (if other than the Trustee) and to each Holder at its address shown in the Register (and to the beneficial owner as required by applicable law) or, in the case of Global Notes, in accordance with the Applicable Procedures.

No failure of the Company to give the foregoing notices and no defect therein shall limit the Holders' repurchase rights or affect the validity of the proceedings for the repurchase of the Notes pursuant to this Section 11.01.

(d) Notwithstanding the foregoing, no Notes may be repurchased by the Company on any date at the option of the Holders upon a Fundamental Change if the principal amount of the Notes has been accelerated, and such acceleration has not been rescinded, on or prior to such date (except in the case of an acceleration resulting from a Default by the Company in the payment of the Fundamental Change Repurchase Price with respect to such Notes). The Paying Agent will promptly return to the respective Holders thereof any Physical Notes held by it during the acceleration of the Notes (except in the case of an acceleration resulting from a Default by the Company in the payment of the Fundamental Change Repurchase Price with respect to such Notes), or any instructions for book-entry transfer of the Notes in compliance with the Applicable Procedures shall be deemed to have been cancelled, and, upon such return or cancellation, as the case may be, the Fundamental Change Repurchase Notice with respect thereto shall be deemed to have been withdrawn.

Notwithstanding anything to the contrary in this Section 11.01, the Company shall not be required to repurchase, or to make an offer to repurchase, Notes upon a Fundamental Change if:

(i) a third party makes the offer in the manner, at the times, and otherwise in compliance with the requirements set forth in this Indenture applicable to an offer by the Company to repurchase Notes upon a Fundamental Change and such third party purchases all Notes validly tendered and not withdrawn upon such offer in the manner and otherwise in compliance with such requirements; or

(ii) pursuant to clause (ii) of the definition of Change of Control (or a Fundamental Change pursuant to clause (i) of the definition of Change of Control), if (i) such Fundamental Change results in the Notes becoming convertible (pursuant to the provisions described in Section 3.07) into an amount of cash per Note that is greater than (x) the Fundamental Change Repurchase Price (assuming the maximum amount of accrued interest would be payable based on the latest possible Fundamental Change Repurchase Date), plus (y) to the extent that such latest possible Fundamental Change Repurchase Date is after a Regular Record Date and on or prior to the Business Day immediately following the corresponding Interest Payment Date, the full amount of interest payable per Note on such Interest Payment Date and (ii) the Company provides timely notice of the Holders' right to convert their Notes based on such Fundamental Change as described in Section 3.01(b)(ii).

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#### **Section 11.02 *Withdrawal of Fundamental Change Repurchase Notice.***

A Fundamental Change Repurchase Notice may be withdrawn (in whole or in part) by means of a written notice of withdrawal delivered to the applicable Paying Agent in accordance with this Section 11.02 at any time prior to the close of business on the Business Day immediately preceding the Fundamental Change Repurchase Date, specifying:

(a) the principal amount of the Notes with respect to which such notice of withdrawal is being submitted, which portion must be in principal amounts of \$1,000 or an integral multiple of \$1,000.00 in excess thereof;

(b) if Physical Notes have been issued, the certificate number of the Note in respect of which such notice of withdrawal is being submitted, and

(c) the principal amount, if any, of such Note that remains subject to the original Fundamental Change Repurchase Notice, which portion must be in principal amounts of \$1,000 or an integral multiple of \$1,000.00 in excess thereof;

*provided, however*, that if the Notes are Global Notes, the withdrawal notice must comply with the Applicable Procedures.

#### **Section 11.03 *Deposit of Fundamental Change Repurchase Price.***

(a) The Company shall deposit with the Trustee (or other Paying Agent appointed by the Company), or if the Company is acting as its own Paying Agent, set aside, segregate and hold in trust as provided in Section 2.14) on or prior to 10:00 a.m., New York City time, on the Fundamental Change Repurchase Date an amount of money sufficient to repurchase all of the Notes to be repurchased at the appropriate Fundamental Change Repurchase Price; *provided, further*, that to the extent such deposit is received by the Paying Agent after 10:00 a.m., New York City time, on any such due date, such deposit will be deemed deposited on the next Business Day. Subject to receipt of funds and/or Notes by the Trustee (or other Paying Agent appointed by the Company), payment for Notes surrendered for repurchase (and not validly withdrawn prior to the close of business on the Business Day immediately preceding the Fundamental Change Repurchase Date) will be made on the later of (i) the Fundamental Change Repurchase Date with respect to such Note (provided the Holder has satisfied the conditions in Section 11.01) and (ii) the time of book-entry transfer or the delivery of such Note to the Trustee (or other Paying Agent appointed by the Company) by the Holder thereof in the manner required by Section 11.01, by mailing checks for the amount payable to the Holders of such Notes entitled thereto as they shall appear in the Register or, at the Company's election, by wire transfer of immediately available funds; *provided, however*, that payments to the Depository shall be made by wire transfer of immediately available funds to the account of the Depository or its nominee. The Trustee or the Paying Agent (as applicable) shall, promptly after such payment and upon written demand by the Company, return to the Company any funds in excess of the Fundamental Change Repurchase Price.

(b) If by 10:00 a.m., New York City time, on the Fundamental Change Repurchase Date, the Trustee (or other Paying Agent appointed by the Company) holds money sufficient to make payment on all the Notes or portions thereof that are to be repurchased on such Fundamental Change Repurchase Date or any applicable extension thereof, then, with respect to Notes that have been properly surrendered for repurchase and have not been validly withdrawn:

(i) such Notes shall cease to be outstanding and interest shall cease to accrue on such Notes on such Fundamental Change Repurchase Date or any applicable extension thereof (whether or not book-entry transfer of the Notes has been made or the Notes have been delivered to the Trustee or Paying Agent); and

(ii) all other rights of the Holders of such Notes will terminate on the Fundamental Change Repurchase Date (other than (x) the right to receive the Fundamental Change Repurchase Price and (y) if the Fundamental Change Repurchase Date falls after a Regular Record Date but on or prior to the related Interest Payment Date, the right of the Holder on such Regular Record Date to receive the accrued and unpaid interest to, but not including, the Fundamental Change Repurchase Date).

(c) Upon surrender of a Note that is to be repurchased in part pursuant to Section 11.01, the Company shall execute and the Trustee shall authenticate and deliver to the Holder a new Note in an authorized denomination equal in principal amount to the unpurchased portion of the Note surrendered, without payment of any service charge.

#### **Section 11.04 *Covenant to Comply with Applicable Laws Upon Repurchase of Notes.***

In connection with any repurchase offer pursuant to a Fundamental Change Repurchase Notice, the Company will, if required:

(a) comply with the provisions of Rule 13e-4, Rule 14e-1 and any other tender offer rules under the Exchange Act that may then be applicable; and

(b) file a Schedule TO or any other required schedule under the Exchange Act;

in each case, so as to permit the rights and obligations under this Article 11 to be exercised in the time and in the manner specified in this Article 11. To the extent that any securities laws and regulations conflict with the provisions of this Indenture with respect to the repurchase of Notes, the Company shall be deemed not to be in breach of this Indenture as a result of compliance therewith.

The Company may appoint a tender agent in connection with such repurchase, in which case such tender agent shall be the Paying Agent in connection with such repurchase.

## **ARTICLE 12 MISCELLANEOUS**

#### **Section 12.01 *Effect on Successors and Assigns.***

All agreements of the Company, the Trustee, the Registrar, the Paying Agent and the Conversion Agent in this Indenture and the Notes will bind their respective successors.

#### **Section 12.02 *Governing Law.***

This Indenture and the Notes, and any claim, controversy or dispute arising under or related to this Indenture or the Notes, will be governed by, and construed in accordance with, the laws of the State of New York, (without regard to the conflicts of laws provisions thereof other than Section 5-1401 of the General Obligations Law).

#### **Section 12.03 *Trust Indenture Act.***

To the extent this Indenture has been qualified under the Trust Indenture Act, if any provision hereof limits, qualifies or conflicts with a provision of the Trust Indenture Act that is required under such Act to be a part of and govern this Indenture, the latter provision shall control. If any provision of this Indenture modifies or excludes any provision of the Trust Indenture Act that may be so modified or excluded, the latter provision shall be deemed to apply to this Indenture as so modified or to be excluded, as the case may be.

#### **Section 12.04 *Benefits of Indenture.***

Nothing in this Indenture or in the Notes, expressed or implied, will give to any Person, other than the parties hereto, any Agent or their successors hereunder or the Holders of the Notes, any benefit or any legal or equitable right, remedy or claim under this Indenture.

#### **Section 12.05 *Calculations.***

Neither the Trustee nor any Agent shall be responsible for making any calculation with respect to any matter under this Indenture or the Notes. The Company and its designated agents shall be responsible for making all calculations called for under this Indenture and the Notes. These calculations include, but are not limited to, the Closing Sale Prices of the Common Stock, the Daily VWAP, the Settlement Amount, accrued interest payable on the Notes, Additional Interest payable on the Notes, the Conversion Rate, the As-Adjusted Coupon Make-Whole Conversion Rate, the As-Adjusted Table Make-Whole Conversion Rate, the Conversion Value, the Conversion Price (including in connection with a Reset Event), the Upward Average Price, the Fundamental Change Repurchase Price, the redemption price (including any premium in connection therewith), and the Make-Whole Amount. The Company shall make all these calculations in good faith and, absent manifest error, its calculations will be final and binding on Holders, the Trustee and the Conversion Agent. The Company shall provide a schedule of its calculations to each of the Trustee and the Conversion Agent, and each of the Trustee and the Conversion Agent and all other agents appointed by the Company herein are entitled to rely conclusively upon the accuracy of the Company's calculations without independent verification. The Company shall forward the Company's calculations to any Holders upon the written request of that Holder.

Whenever the Company is required to calculate or make adjustments to the Conversion Rate, the Company will do so to the 1/10,000<sup>th</sup> of a share of Common Stock, rounding any additional decimal places up or down in a commercially reasonable manner.

## **Section 12.06 Execution in Counterparts.**

This Indenture may be executed in any number of counterparts, each of which shall be an original, but such counterparts shall together constitute but one and the same instrument. The exchange of copies of this Indenture and of signature pages by facsimile or PDF transmission shall constitute effective execution and delivery of this Indenture as to the parties hereto and may be used in lieu of the original Indenture for all purposes. Signatures of the parties hereto transmitted by facsimile or PDF shall be deemed to be their original signatures for all purposes. The words "execution," "signed," "signature," and words of similar import in this Indenture and the Notes shall be deemed to include electronic or digital signatures or the keeping of records in electronic form, each of which shall be of the same effect, validity, and enforceability as manually executed signatures or a paper based recordkeeping system, as the case may be, to the extent and as provided for under applicable law, including the Electronic Signatures in Global and National Commerce Act of 2000 (15 U.S.C. §§ 7001-7006), the Electronic Signatures and Records Act of 1999 (N.Y. State Tech. §§ 301-309), or any other similar state laws based on the Uniform Electronic Transactions Act; *provided that*, notwithstanding anything herein to the contrary, the Trustee is not under any obligation to agree to accept electronic signatures in any form or in any format unless expressly agreed to by the Trustee, as applicable, pursuant to procedures approved by the Trustee, as applicable.

## **Section 12.07 Notices.**

(a) Except as otherwise provided herein, any request, demand, authorization, direction, notice, consent, election, waiver or Act of Holders or other document provided or permitted by this Indenture to be made upon, given or furnished to, or filed with, the Company, the Trustee shall be in writing and delivered in person or mailed by first class mail, postage prepaid, overnight courier or transmitted by facsimile transmission, email or electronic transmission in PDF format as follows:

- (i) if to the Trustee by any Holder or by the Company, at the Corporate Trust Office;
- (ii) if to the Company by the Trustee or by any Holder, at the address of its principal office at Gorilla Technology Group Inc.

*If to Gorilla Technology Group Inc.*

64 North Row  
London, United Kingdom W1K 7DA  
Attention: CEO  
Email: jay@gorilla-technology.com

*with a copy (which will not constitute notice) to:*

Pillsbury Winthrop Shaw Pittman LLP  
31 West 52nd Street, New York, NY 10019  
Attention: Stephen Ashley  
Email: stephen.ashley@pillsburylaw.com

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(b) The Company, the Trustee by notice given to the other in the manner provided in this Section 12.07, may designate additional or different addresses for subsequent notices or communications.

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(c) Notices to Holders will be sent to the address of each Holder as it appears in the Register. Notices will be deemed to have been given on the date of mailing or electronic transmission to such Holder. Whenever a notice is required to be given by the Company, such notice may be given by the Trustee at the Company's request on the Company's behalf. With respect to Global Notes, notice shall be sufficiently given if given to the Depositary for the Notes (or its designee), pursuant to Applicable Procedures of such Depositary (and the Company will make any notices the Company is required to give to Holders available on the Company's website).

(d) Whenever the Company is required to deliver notice to the Holders, the Company will, by the date it is required to deliver such notice to the Holders, deliver a copy of such notice to the Trustee and the Agents. Notices to the Trustee shall be deemed given upon actual receipt thereof.

In respect of this Indenture, the Trustee, in each of its capacities, including without limitation as the Trustee, Registrar, Paying Agent and Conversion Agent, shall not have any duty or obligation to verify or confirm that the Person sending instructions, directions, reports, notices or other communications or information by electronic transmission is, in fact, a Person authorized to give such instructions, directions, reports, notices or other communications or information on behalf of the party purporting to send such electronic transmission; and the Trustee shall not have any liability for losses, liabilities, costs or expenses incurred or sustained by any party as a result of such reliance upon or compliance with such instructions, directions, reports, notices or other communications or information. Each other party agrees to assume all risks arising out of the use of electronic methods to submit instructions, directions, reports, notices or other communications or information to the Trustee, as applicable, including, without limitation the risk of the Trustee, as applicable, acting on unauthorized instructions, notices, reports or other communications or information, and the risk of interception and misuse by third parties.

## **Section 12.08 No Recourse Against Others.**

No director, officer, employee, incorporator or stockholder of the Company shall have any liability for any obligations of the Company under the Notes, the Indenture, or any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder, by accepting a Note, waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes.

## **Section 12.09 Tax Withholding.**

Nothing herein shall preclude any tax withholding required by law or regulation. Each Holder agrees, and each beneficial owner of an interest in a Note by its acquisition of such interest is deemed to agree, that if the Company or other applicable withholding agent pays withholding taxes or backup withholding on behalf of the Holder or beneficial owner as a result of an adjustment to the Conversion Rate, the Company or other applicable withholding agent may, at its option, set off such payments against payments of cash and shares of Common Stock on the Note (or, in certain circumstances, against any payments on the Common Stock).

Each Holder agrees to provide the Company and its agents with certified tax identification numbers by furnishing appropriate forms W-9 or W-8 and such other forms and documents that the Company or its agents may request. Each Holder understands that if such tax reporting documentation is not provided and certified to the Company or agents, the Company or its agents may be required by the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, to withhold a portion of any interest or other income earned on the Notes. The Company shall provide to the Paying Agent any information that the Paying Agent needs to comply with any tax reporting obligations that it may have under any applicable law.

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## **Section 12.10 Waiver of Jury Trial.**

EACH OF THE COMPANY AND THE TRUSTEE HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES OR THE OTHER INDENTURE DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.

#### **Section 12.11 U.S.A. Patriot Act.**

The parties hereto acknowledge that in accordance with Section 326 of the U.S.A. Patriot Act, the Trustee, like all financial institutions and in order to help fight the funding of terrorism and money laundering, is required to obtain, verify, and record information that identifies each person or legal entity that establishes a relationship or opens an account with the Trustee. The parties to this Indenture agree that they will provide the Trustee with such information as it may request in order for the Trustee to satisfy the requirements of the U.S.A. Patriot Act.

#### **Section 12.12 Force Majeure.**

In no event shall the Trustee or any Agent be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, any act or provision of any present or future law or regulation or governmental authority, earthquakes, fires, floods, strikes, work stoppages or other labor disputes, accidents, acts of war or terrorism, civil or military disturbances, riots, disasters, epidemics, pandemics or similar public health emergencies, nuclear or natural catastrophes or acts of God, malware or ransomware attack and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services, including the unavailability of the Federal Reserve Bank wire or telex or other wire or communication facility; it being understood that the Trustee or other Agent, as applicable, shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

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#### **Section 12.13 Submission to Jurisdiction.**

The Company hereby irrevocably consents to the non-exclusive jurisdiction of the courts of the State of New York and the courts of the United States of America located in the City of New York and the County of New York, over any suit, action or proceeding with respect to this Indenture or the Notes or the transactions contemplated hereby. The Company waives any objection that it may have to the venue of any suit, action or proceeding with respect to this Indenture or the Notes or the transactions contemplated hereby in the courts of the State of New York or the courts of the United States of America, in each case, located in the City of New York and County of New York, or that such suit, action or proceeding brought in the courts of the State of New York or the United States of America, in each case, located in the City of New York and County of New York was brought in an inconvenient court and agrees not to plead or claim the same. The Company hereby irrevocably appoints C T Corporation System, 28 Liberty Street, New York, NY 10005, as its authorized agent in the State of New York upon which process may be served in any such suit or proceedings, and agrees that service of process upon such agent shall be deemed in every respect effective service of process upon the Company in any such suit or proceeding. The Company further agrees to take any and all action as may be necessary to maintain such designation and appointment of such agent in full force and effect for the term of this Indenture. Nothing in this Indenture shall in any way be deemed to limit the ability to serve any such writs, process or summonses in any other manner permitted by applicable law.

#### **Section 12.14 Severability.**

In case any provision in this Indenture or in the Notes is invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions will not in any way be affected or impaired thereby.

#### **Section 12.15 Legal Holidays.**

In any case where any Interest Payment Date, Fundamental Change Repurchase Date, redemption date, Conversion Date, Maturity Date or any other date on which the principal and accrued but unpaid interest, if any, on the Notes is due and payable, is not a Business Day or is a day on which the banking institutions in the city of the office of the Paying Agent are authorized or obligated by law to close or be closed, then any payment to be made on such date may be made on the next succeeding day that is a Business Day and is not a day on which the banking institutions in the city of the office of the Paying Agent are authorized or obligated by law to close or be closed with the same force and effect as if made on such Interest Payment Date, Fundamental Change Repurchase Date, redemption date, Conversion Date, Maturity Date or such other date, as the case may be, and no interest shall accrue in respect of the delay.

*[Remainder of the page intentionally left blank]*

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**IN WITNESS WHEREOF**, the parties hereto have caused this Indenture to be duly executed as of the day and year first above written.

Gorilla Technology Group Inc.

By: /s/ Jayesh Chandan  
Name: Jayesh Chandan  
Title: CEO & Chairman

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, as  
Trustee

By: /s/ Brandon Bonfig  
Name: Brandon Bonfig  
Title: Vice President

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**EXHIBIT A**

[FORM OF FACE OF NOTE]

[For all Notes, include the following legend (the “**Non-Affiliate Legend**”):]

**NO AFFILIATE (AS DEFINED IN RULE 144 UNDER THE SECURITIES ACT) OF THE COMPANY OR PERSON THAT HAS BEEN AN AFFILIATE (AS DEFINED IN RULE 144 UNDER THE SECURITIES ACT) OF THE COMPANY DURING THE IMMEDIATELY PRECEDING THREE MONTHS MAY PURCHASE, OTHERWISE ACQUIRE OR HOLD THIS NOTE OR A BENEFICIAL INTEREST HEREIN.**

[For Global Notes, include the following legend (the “Global Notes Legend”):]

THIS SECURITY IS A GLOBAL NOTE WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF A DEPOSITARY OR A NOMINEE THEREOF. THIS SECURITY MAY NOT BE EXCHANGED IN WHOLE OR IN PART FOR A SECURITY REGISTERED, AND NO TRANSFER OF THIS SECURITY IN WHOLE OR IN PART MAY BE REGISTERED, IN THE NAME OF ANY PERSON OTHER THAN SUCH DEPOSITARY OR A NOMINEE THEREOF, EXCEPT IN THE LIMITED CIRCUMSTANCES DESCRIBED IN THE INDENTURE.

[For all Notes that are Restricted Notes, include the following legend (the “Restricted Notes Legend”):]

THIS SECURITY AND THE SHARES OF COMMON STOCK, IF ANY, ISSUABLE UPON CONVERSION OF THIS SECURITY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), AND MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT IN ACCORDANCE WITH THE FOLLOWING SENTENCE. BY ITS ACQUISITION HEREOF OR OF A BENEFICIAL INTEREST HEREIN, THE ACQUIRER:

(1) REPRESENTS THAT IT AND ANY ACCOUNT FOR WHICH IT IS ACTING IS A “QUALIFIED INSTITUTIONAL BUYER” (WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT) AND THAT IT EXERCISES SOLE INVESTMENT DISCRETION WITH RESPECT TO EACH SUCH ACCOUNT, AND

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(2) AGREES FOR THE BENEFIT OF GORILLA TECHNOLOGY GROUP INC. (THE “COMPANY”) THAT IT WILL NOT OFFER, SELL, PLEDGE OR OTHERWISE TRANSFER THIS SECURITY OR ANY BENEFICIAL INTEREST HEREIN PRIOR TO THE DATE THAT IS THE LATER OF (X) ONE YEAR AFTER THE LAST DATE OF ORIGINAL ISSUANCE HEREOF OR SUCH SHORTER PERIOD OF TIME AS PERMITTED BY RULE 144 UNDER THE SECURITIES ACT OR ANY SUCCESSOR PROVISION THERETO AND (Y) SUCH LATER DATE, IF ANY, AS MAY BE REQUIRED BY APPLICABLE LAW, EXCEPT:

(A) TO THE COMPANY OR ANY SUBSIDIARY THEREOF, OR

(B) PURSUANT TO A REGISTRATION STATEMENT WHICH HAS BECOME EFFECTIVE UNDER THE SECURITIES ACT, OR

(C) TO A QUALIFIED INSTITUTIONAL BUYER IN COMPLIANCE WITH RULE 144A UNDER THE SECURITIES ACT, OR

(D) PURSUANT TO AN EXEMPTION FROM REGISTRATION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT OR ANY OTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

PRIOR TO THE REGISTRATION OF ANY TRANSFER IN ACCORDANCE WITH CLAUSE (2)(D) ABOVE, THE COMPANY AND THE TRUSTEE RESERVE THE RIGHT TO REQUIRE THE DELIVERY OF SUCH LEGAL OPINIONS, CERTIFICATIONS OR OTHER EVIDENCE AS MAY REASONABLY BE REQUIRED IN ORDER TO DETERMINE THAT THE PROPOSED TRANSFER IS BEING MADE IN COMPLIANCE WITH THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS. NO REPRESENTATION IS MADE AS TO THE AVAILABILITY OF ANY EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

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Gorilla Technology Group Inc.  
7.50% Senior Unsecured Convertible Notes, Series B due 2031

No.: [ ]  
CUSIP: 38305QAB0<sup>1</sup>

Principal  
Amount \$ [ ]

[For Global Notes, include the following: as revised by the Schedule of Increases and Decreases in the Global Note attached hereto]

Gorilla Technology Group Inc., a company organized under the laws of the Cayman Islands (the “Company”), promises to pay to [ ] [include “Cede & Co.” for Global Note] or registered assigns, the principal amount of [add principal amount in words] \$ [ ] [For Global Notes, include the following: as revised by the Schedule of Increases and Decreases in the Global Note attached hereto,] on June 15, 2031 (the “Maturity Date”).

Interest Payment Dates: June 15 and December 15 of each year, beginning on the first such date that is at least 30 calendar days after the Issue Date, on each Conversion Date (as to that principal amount then being converted), and on the Maturity Date.

Regular Record Dates: June 1 and December 1.

Additional provisions of this Note are set forth on the other side of this Note.

IN WITNESS WHEREOF, Gorilla Technology Group Inc. has caused this instrument to be signed manually or by facsimile or by another electronic method by one of its duly authorized Officers.

Gorilla Technology Group Inc.

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

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<sup>1</sup> This Note will be deemed to be identified by CUSIP No. 38305QAC8 and ISIN No. US38305QAC87 from and after such time when the Company notifies the Trustee, pursuant to Section 2.16 of the within-mentioned Indenture, that the restrictions set forth in the Restricted Notes Legend affixed to this Note are eliminated or otherwise waived.

Dated:

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, as  
Trustee

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

[FORM OF REVERSE OF NOTE]

Gorilla Technology Group Inc.

7.50% Senior Unsecured Convertible Notes, Series B due 2031

This Note is one of a duly authorized issue of securities of the Company (herein called the “Notes”), issued under the Indenture dated as of July 17, 2026 by and among the Company, U.S. Bank Trust Company, National Association, as trustee, herein called the “Trustee”, reference is hereby made to the Indenture for a statement of the respective rights, limitations of rights, duties and immunities thereunder of the Company, the Trustee and the Holders of the Notes and of the terms upon which the Notes are, and are to be, authenticated and delivered.

The Company shall pay all interest due on this Note as set forth in the Indenture on the then outstanding principal amount of this Note.

This Note does not benefit from a sinking fund.

As provided in and subject to the provisions of the Indenture, upon the occurrence of a Fundamental Change, the Holder of this Note will have the right, at such Holder’s option, to require the Company to repurchase this Note, or any portion of this Note such that the principal amount of this Note that is not purchased equals \$1,000.00 or an integral multiple of \$1,000.00 on the Fundamental Change Repurchase Date at a price equal to the Fundamental Change Repurchase Price for such Fundamental Change Repurchase Date.

As provided in and subject to the provisions of the Indenture, the Holder hereof has the right, prior to the Close of Business on the Business Day immediately preceding the Maturity Date, to convert this Note or a portion of this Note such that the principal amount of this Note plus accrued and unpaid interest on such Note converted equals \$1,000.00 or an integral multiple of \$1,000.00 into a number of shares of Common Stock determined in accordance with Article 3 of the Indenture and subject to adjustment as set forth therein.

As provided in and subject to the provisions of the Indenture, the Company will make all payments in respect of the Fundamental Change Repurchase Price for and the principal amount of, this Note to the Holder that surrenders this Note to the Paying Agent to collect such payments in respect of this Note. The Company will pay cash amounts in money of the U.S. that at the time of payment is legal tender for payment of public and private debts. As provided in and subject to the provisions of the Indenture, the Company may elect to pay interest in the form of shares of the Company’s common stock rather than in cash.

The Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Company and the rights of the Holders of the Notes to be effected under the Indenture at any time by the Company, the Trustee with the consent of the Required Holders (as defined in the Indenture). The Indenture also contains provisions permitting the Required Holders, on behalf of the Holders of all Notes, to waive compliance by the Company with certain provisions of the Indenture and certain past Defaults under the Indenture and their consequences. Any such consent or waiver by the Holder of this Note shall be conclusive and binding upon such Holder and upon all future Holders of this Note and of any Note issued upon the registration of transfer hereof or in exchange herefor or in lieu hereof, whether or not notation of such consent or waiver is made upon this Note.

As provided in and subject to the provisions of the Indenture, the Holder of this Note shall not have the right to institute any proceeding with respect to the Indenture, or for the appointment of a receiver or trustee, or for any other remedy thereunder, unless such Holder shall have previously given the Trustee written notice of a continuing Event of Default with respect to the Note, the Holders of not less than 25% in principal amount of the Notes at the time Outstanding shall have made written request to the Trustee to institute proceedings in respect of such Event of Default as Trustee and offered (and if requested, provided) the Trustee indemnity satisfactory to the Trustee, and the Trustee shall have failed to institute any such proceeding, for 60 days after receipt of such notice, request and offer of indemnity, and shall not have received from the Required Holders a direction inconsistent with such request. The foregoing shall not apply to any suit instituted by the Holder of this Note for the enforcement of any payment of the principal hereof, premium, if any, or interest hereon, the Fundamental Change Repurchase Price with respect to and the amount of cash, the number of shares of Common Stock due upon conversion of this Note or after the respective due dates expressed in the Indenture.

No reference herein to the Indenture and no provision of this Note or of the Indenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay or deliver, as the case may be, the principal of (including the Fundamental Change Repurchase Price, if applicable), premium, interest on and the number of shares of Common Stock due upon conversion of, this Note at the time, place and rate, and in the coin and currency, herein prescribed.

As provided in the Indenture and subject to certain limitations therein set forth, the transfer of this Note is registrable in the Register, upon surrender of this Note for registration of transfer to the Trustee, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Company and the Registrar duly executed by, the Holder hereof or its attorney duly authorized in writing, and thereupon a new Note of this series and of like tenor for the same aggregate principal amount will be issued to the designated transferee.

The Notes are issuable only in registered form without coupons in minimum denominations of \$1,000.00 and integral multiples of \$1,000.00. As provided in the Indenture and subject to certain limitations therein set forth, the Notes are exchangeable for a like aggregate principal amount of Notes and of like tenor of a different authorized denomination, as requested by the Holder surrendering the same.

Subject to the rights of the Holders as of the Regular Record Date to receive interest on the related Interest Payment Date, prior to due presentment of this Note for registration of transfer, the Company, the Trustee, the Agents and any of their respective agents may treat the Person in whose name the Note is registered as the owner hereof for all purposes, whether or not this Note be overdue, and neither the Company, the Trustee, the Agents nor any agents shall be affected by notice to the contrary.

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

Upon the issuance of any new Note, the Company may require payment by the Holder of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including fees and expenses of the Trustee) connected therewith.

All defined terms used in this Note that are defined in the Indenture shall have the meanings assigned to them in the Indenture. If any provision of this Note limits, qualifies or conflicts with a provision of the Indenture, such provision of the Indenture shall control.

ATTACHMENT 1

[FORM OF NOTICE OF CONVERSION]

To: Gorilla Technology Group Inc.  
  
Cc: U.S. Bank Trust Company, National Association  
West Side Flats, 60 Livingston Avenue, Saint Paul, MN 55107  
Attn: B. Bonfig (Gorilla Technology Group Inc. Series B Notes Administrator)

Re: 7.50% SENIOR UNSECURED CONVERTIBLE NOTES, SERIES B DUE 2031

The undersigned owner of this Note hereby irrevocably exercises the option to convert this Note, or a portion hereof (which is such that the principal amount of the portion of this Note that will not be converted equals \$1,000.00 or an integral multiple of \$1,000.00 in excess thereof) below designated, into a number of shares of Common Stock in accordance with the terms of the Indenture referred to in this Note, and directs that any cash payable and the shares of Common Stock issuable and deliverable upon conversion, together with any Notes representing any unconverted principal amount hereof, be paid and/or issued and/or delivered, as the case may be, to the registered Holder hereof unless a different name is indicated below.

Subject to certain exceptions set forth in the Indenture, if this notice is being delivered on a date after the Close of Business on a Regular Record Date and prior to the Open of Business on the Interest Payment Date corresponding to such Regular Record Date, this notice must be accompanied by payment of an amount equal to the interest payable on such Interest Payment Date on the principal amount of this Note to be converted which such payment shall, in the case of Physical Notes, be made payable to the Company. If any shares of Common Stock are to be issued in the name of a Person other than the undersigned, the undersigned will pay all transfer taxes payable with respect to such issuance and transfer as set forth in the Indenture.

The Holder acknowledges that this Conversion Notice is subject to the restrictions set forth in Section 3.01(c)(i) of the Indenture.

Principal amount to be converted (if less than all) which must be \$1,000.00 or an integral multiple of \$1,000.00 in excess thereof:

\$ \_\_\_\_\_

Your contact information:  
Participant Name: \_\_\_\_\_  
Participant Number: \_\_\_\_\_  
Contact Name: \_\_\_\_\_  
Contact Email: \_\_\_\_\_  
Contact Telephone: \_\_\_\_\_

STOCK CERTIFICATE INFORMATION

The undersigned hereby requests that the stock certificate or certificates issued upon conversion be registered in the name(s) of the persons set forth below.

The undersigned acknowledges that the Company is not required to pay any tax which may be payable in respect of any transfer involved in the issue and delivery of shares in any name other than that of the converting holder, and the converting holder is solely responsible for the payment of any such taxes. The undersigned acknowledges that if shares are to be issued in the name of a person other than the converting holder, the converting holder shall pay all transfer taxes payable with respect thereto.

**You must check one, and only one, of the following two boxes:**

- ☐ The undersigned is requesting registration in a name other than that of the converting holder. The converting holder acknowledges sole responsibility for the payment of any taxes that may be owing by reason thereof. If any taxes are payable upon transfer, they have already been paid.
- ☐ No transfer of beneficial ownership is occurring in connection with the conversion.

***Registered Holder Information:***

Name: \_\_\_\_\_  
SSN or Tax ID No.: \_\_\_\_\_  
Street Address: \_\_\_\_\_  
City, State and Zip Code: \_\_\_\_\_

***Delivery Instructions:***

Unless you direct otherwise below, the above-referenced stock certificate(s) will be delivered to the registered holder at the address specified above. If you wish to provide separate delivery instructions, check the box and complete the information set forth below.

- ☐ The undersigned requests that the above-referenced stock certificate(s) be delivered to the person and address set forth below:
- Name: \_\_\_\_\_

SSN or Tax ID No.: \_\_\_\_\_  
Street Address: \_\_\_\_\_  
City, State and Zip Code: \_\_\_\_\_

#### CASH PAYMENT INSTRUCTIONS

The undersigned directs that any cash payment owed for fractional shares (and, if applicable, for any accrued but unpaid interest which may be payable under certain limited circumstances) be wired in accordance with the wire instructions set forth below:

Bank: \_\_\_\_\_  
Address: \_\_\_\_\_  
Name of Account: \_\_\_\_\_  
ABA No.: \_\_\_\_\_  
Account No.: \_\_\_\_\_

To avoid the application of “backup withholding” under U.S. federal income tax law, each converting holder (or other payee) should complete, sign, and deliver an Internal Revenue Service (“IRS”) Form W-9 (in the case of a U.S. person or a resident alien) or an IRS Form W-8BEN or other appropriate IRS Form W-8 (in the case of a foreign holder). IRS Forms W-9 and W-8 are available on the IRS’s website at <http://www.irs.gov/>. Failure to include a properly completed IRS Form W-9 or applicable IRS Form W-8 may result in the application of U.S. backup withholding.

Capitalized terms used but not defined herein shall have the meanings set forth in the Indenture.

Dated: \_\_\_\_\_

Signature(s)  
(Sign exactly as your name appears on the other side of this Note)  
Name:  
Title:  
Signature Guarantee  
(Signature(s) must be guaranteed by an institution which is a member of one of the following recognized signature Guarantee Programs:  
(i) The Notes Transfer Agent Medallion Program (STAMP); (ii) The New York Stock Exchange Medallion Program (MNSP); (iii) another guarantee program acceptable to the Trustee.)

ATTACHMENT 2

#### [FORM OF ASSIGNMENT AND TRANSFER]

For value received, hereby sell(s), assign(s) and transfer(s) unto \_\_\_\_\_ (Please insert social security or Taxpayer Identification Number of assignee) the within Note, and hereby irrevocably constitutes and appoints to transfer the said Note on the books of the Company, with full power of substitution in the premises.

In connection with any transfer of the within Note occurring prior to the date that is the later of (1) the date that is one year after the last date of original issuance of the within Note, or such shorter period of time as permitted by Rule 144 or any successor provision thereto, and (2) such later date, if any, as may be required by applicable law, the undersigned confirms that such Note is being transferred:

- ☐ To Gorilla Technology Group Inc. or a subsidiary thereof; or
- ☐ Pursuant to a registration statement which has become effective under the Securities Act of 1933, as amended; or
- ☐ To a qualified institutional buyer in compliance with Rule 144A under the Securities Act of 1933, as amended; or
- ☐ Pursuant to an exemption from registration provided by Rule 144 under the Securities Act of 1933, as amended, or any other available exemption from the registration requirements of the Securities Act of 1933, as amended.

[TO BE SIGNED BY PURCHASER IF THE SECOND, THIRD OR FOURTH BOX ABOVE IS CHECKED]

[Include if the second, third or fourth box above is checked] [The undersigned (on the immediately following signature line) represents and warrants that it is not, and has not been for the immediately preceding three months, an “affiliate” (as defined in Rule 144 under the Securities Act of 1933, as amended) of Gorilla Technology Group Inc.]

[Include if the third box above is checked] [The undersigned (on the immediately following signature line) represents and warrants that it is purchasing this Note for its own account or an account with respect to which it exercises sole investment discretion and that it and any such account is a “qualified institutional buyer” within the meaning of Rule 144A under the Securities Act and is aware that the sale to it is being made in reliance on Rule 144A and acknowledges that it has received such information regarding the Company as the undersigned has requested pursuant to Rule 144A or has determined not to request such information and that it is aware that the transferor is relying upon the undersigned’s foregoing representations in order to claim the exemption from registration provided by Rule 144A.]

[Date: \_\_\_\_\_ Signed: \_\_\_\_\_]

Unless one of the above boxes is checked, the Trustee and Registrar will refuse to register any of the Notes evidenced by this certificate in the name of any Person other than the

registered Holder thereof; provided that, if the fourth box is checked, the Company may require, prior to registering any such transfer of the Notes, in its sole discretion, such legal opinions, certifications and other information as the Company may reasonably request to confirm that such transfer is being made pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act.

If none of the foregoing boxes is checked, the Trustee or Registrar shall not be obligated to register this Note in the name of any Person other than the Holder hereof unless and until the conditions to any such transfer of registration set forth herein and in Section 2.14 of the Indenture shall have been satisfied.

Dated: \_\_\_\_\_

Signature(s) \_\_\_\_\_

(Sign exactly as your name appears on the other side of this Note)

Signature Guarantee  
(Signature(s) must be guaranteed by an institution which is a member of one of the following recognized signature Guarantee Programs: (i) The Notes Transfer Agent Medallion Program (STAMP); (ii) The New York Stock Exchange Medallion Program (MNSP); (iii) The Stock Exchange Medallion Program (SEMP) or (iv) another guarantee program acceptable to the Trustee)

ATTACHMENT 3

[Insert for Global Note]

SCHEDULE OF INCREASES AND DECREASES IN THE GLOBAL NOTE  
Initial Principal Amount of Global Note: [\$\_\_\_\_\_]

| Date | Amount of Increase<br>in Principal<br>Amount of Global<br>Note | Amount of<br>Decrease in<br>Principal<br>Amount of<br>Global Note | Principal<br>Amount of<br>Global Note<br>After Increase<br>or Decrease | Notation by Registrar,<br>Note Custodian or<br>authorized<br>signatory<br>of Trustee |
|------|----------------------------------------------------------------|-------------------------------------------------------------------|------------------------------------------------------------------------|--------------------------------------------------------------------------------------|
|      |                                                                |                                                                   |                                                                        |                                                                                      |

ATTACHMENT 4

[FORM OF FUNDAMENTAL CHANGE REPURCHASE NOTICE]

To: Paying Agent

The undersigned registered owner of this Note hereby acknowledges receipt of a notice from Gorilla Technology Group Inc. (the “Company”) as to the occurrence of a Fundamental Change with respect to the Company and specifying the Fundamental Change Repurchase Date and requests and instructs the Company to pay to the registered holder hereof in accordance with Section 11.01 of the Indenture referred to in this Note (1) the entire principal amount of this Note, or the portion thereof (that is \$1,000 principal amount or an integral multiple of \$1,000.00 in excess thereof) below designated, and (2) if such Fundamental Change Repurchase Date does not fall during the period after a Regular Record Date and on or prior to the corresponding Interest Payment Date, accrued and unpaid interest, if any, thereon to, but excluding, such Fundamental Change Repurchase Date.

In the case of Physical Notes, the certificate numbers of the Notes to be repurchased are as set forth below: \_\_\_\_\_

Dated: \_\_\_\_\_

Signature(s) \_\_\_\_\_

Social Security or Other Taxpayer  
Identification Number \_\_\_\_\_

Principal amount to be repurchased (if less than all):  
\$\_\_\_\_\_,000

NOTICE: The above signature(s) of the Holder(s) hereof must correspond with the name as written upon the face of the Note in every particular without alteration or enlargement or any change whatever.

EXHIBIT B

[FORM OF RESTRICTED STOCK LEGEND]

THIS SECURITY HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), AND MAY NOT BE OFFERED, SOLD,

PLEDGED OR OTHERWISE TRANSFERRED EXCEPT IN ACCORDANCE WITH THE FOLLOWING SENTENCE. BY ITS ACQUISITION HEREOF OR OF A BENEFICIAL INTEREST HEREIN, THE ACQUIRER:

(1) REPRESENTS THAT IT AND ANY ACCOUNT FOR WHICH IT IS ACTING IS A “QUALIFIED INSTITUTIONAL BUYER” (WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT) AND THAT IT EXERCISES SOLE INVESTMENT DISCRETION WITH RESPECT TO EACH SUCH ACCOUNT, AND

(2) AGREES FOR THE BENEFIT OF GORILLA TECHNOLOGY GROUP INC. (THE “COMPANY”) THAT IT WILL NOT OFFER, SELL, PLEDGE OR OTHERWISE TRANSFER THIS SECURITY OR ANY BENEFICIAL INTEREST HEREIN PRIOR TO THE DATE THAT IS THE LATER OF (X) ONE YEAR AFTER THE LAST DATE OF ORIGINAL ISSUANCE OF THE COMPANY’S 7.50% SENIOR UNSECURED CONVERTIBLE NOTES, SERIES B DUE 2031 OR SUCH SHORTER PERIOD OF TIME AS PERMITTED BY RULE 144 UNDER THE SECURITIES ACT OR ANY SUCCESSOR PROVISION THERETO AND (Y) SUCH LATER DATE, IF ANY, AS MAY BE REQUIRED BY APPLICABLE LAW, EXCEPT:

(A) TO THE COMPANY OR ANY OF ITS SUBSIDIARIES, OR

(B) PURSUANT TO A REGISTRATION STATEMENT THAT HAS BEEN DECLARED (OR HAS BECOME) EFFECTIVE UNDER THE SECURITIES ACT THAT COVERS RESALE OF THE SHARES OF COMMON STOCK UNDERLYING THE COMPANY’S 7.50% SENIOR UNSECURED CONVERTIBLE NOTES, SERIES B DUE 2031, OR

(C) TO A QUALIFIED INSTITUTIONAL BUYER IN COMPLIANCE WITH RULE 144A UNDER THE SECURITIES ACT, OR

(D) PURSUANT TO AN EXEMPTION FROM REGISTRATION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT (IF AVAILABLE) OR ANY OTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

PRIOR TO THE REGISTRATION OF ANY TRANSFER IN ACCORDANCE WITH CLAUSE (2)(D) ABOVE, THE COMPANY AND THE TRANSFER AGENT FOR THE COMPANY’S COMMON STOCK RESERVE THE RIGHT TO REQUIRE THE DELIVERY OF SUCH LEGAL OPINIONS, CERTIFICATIONS OR OTHER EVIDENCE AS MAY REASONABLY BE REQUIRED IN ORDER TO DETERMINE THAT THE PROPOSED TRANSFER IS BEING MADE IN COMPLIANCE WITH THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS, AND THE TRANSFER AGENT WILL NOT BE REQUIRED TO ACCEPT FOR REGISTRATION OF TRANSFER ANY SECURITIES ACQUIRED BY A PURCHASER EXCEPT UPON PRESENTATION OF EVIDENCE SATISFACTORY TO THE TRANSFER AGENT THAT THE RESTRICTIONS SET FORTH HEREIN HAVE BEEN COMPLIED WITH. NO REPRESENTATION IS MADE AS TO THE AVAILABILITY OF ANY EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

## PLACEMENT AGENCY AGREEMENT

July 15, 2026

The Benchmark Company, LLC  
150 East 58th Street, 17th Floor  
New York, NY 10155

Ladies and Gentlemen:

Gorilla Technology Group Inc., an exempted company incorporated under the laws of the Cayman Islands (the “Company”), proposes to issue and sell directly to the several purchasers (the “Purchasers”) \$125,000,000 aggregate principal amount of the Company’s 7.50% Senior Unsecured Convertible Notes, Series B due 2031 (the “Notes”) issued pursuant to that certain Indenture, dated July 17, 2026, by and among the Company and U.S. Bank Trust Company, National Association, as trustee (the “Indenture”), whereby the Purchasers will be issued Notes and such sales of Notes, the “Note Purchases”. The Note Purchases will be governed by and pursuant to a securities purchase agreement (the “Purchase Agreement”) between the Company and the Purchasers and following the issuance thereof, the Notes and the Ordinary Shares issuable upon the conversion thereof will be subject to a registration rights agreement between the Company and the several Purchasers (the “Registration Rights Agreement”). Payment by the Purchasers for the Notes shall be made pursuant to the terms of the Purchase Agreement at the time and date referred to therein as the “Closing Date”. The Notes will initially be issued in a private placement transaction (the “Placement”) pursuant to exemptions from registration set forth in Section 4(a)(2) of the Securities Act of 1933, as amended, and the rules and regulations thereunder (collectively, the “Act”) only to qualified institutional buyers as defined in the Act (“QIB”).

As used in this this Placement Agency Agreement (this “Agreement”):

“**Applicable Time**,” as used herein, means 9:00 A.M., New York City time, on July 15, 2026, or such other time as agreed by the Company and the Placement Agent

“**business day**” means a day on which the Securities and Exchange Commission (the “Commission”)’s office in Washington, D.C. is open for business.

“**Knowledge**” means the actual knowledge of any of (i) the Company’s Chief Executive Officer, or (ii) the Company’s Chief Financial Officer, in each case after reasonable inquiry of officers, directors and employees of the Company and its subsidiaries under such person’s direct supervision who would reasonably be expected to have knowledge or information with respect to the matter in question.

“**Use of Proceeds**” means the use of proceeds to fund advance payments required to secure committed data center capacity and commence the equity portion of purchases of data center equipment for deployment pursuant to the Company’s Neutra DC Batam project in Indonesia, announced on June 23, 2026, with any remaining proceeds to be used for general corporate purposes, and shall not use such proceeds: (a) for the satisfaction of any portion of the Company’s debt (other than payment of trade payables in the ordinary course of the Company’s business and prior practices), (b) for the redemption of any Ordinary Shares or Ordinary Share Equivalents, (c) for the settlement of any outstanding litigation or (d) in violation of FCPA or Office of Foreign Assets Control of the U.S. Treasury Department regulations.

The terms “herein,” “hereof,” “hereto,” “hereinafter” and similar terms, as used in this Agreement, shall in each case refer to this Agreement as a whole and not to any particular section, paragraph, sentence or other subdivision of this Agreement. The term “or,” as used herein, is not exclusive.

The Company and the Placement Agent agree as follows:

1. *Appointment as Placement Agent.* The Company and the Placement Agent agree:

(a) The Company hereby appoints you, The Benchmark Company, LLC (“Benchmark”), as exclusive placement agent (the “Placement Agent”), and you hereby accept such appointment and agree to act as exclusive placement agent and to solicit offers from Purchasers to participate in Note Purchases, and the Company hereby authorizes you to act on its behalf in accordance with this Agreement. It is understood and agreed that you will act under this Agreement as an independent contractor with duties solely to the Company and nothing in this Agreement or the nature of your services in connection with this engagement or otherwise shall be deemed to create a fiduciary duty or fiduciary or agency relationship between you and the Company or its shareholders, employees or creditors, and the Company agrees that it shall not make, and hereby waives, any claim based on an assertion of such a fiduciary duty or relationship. Additionally, the Placement Agent is not advising the Company, or any other person as to any legal, tax, investment, accounting or regulatory matters in any jurisdiction. The Company shall consult with its own advisors concerning such matters and shall be responsible for making its own independent investigation and appraisal of the Placement, and the Placement Agent shall not have any responsibility or liability to the Company with respect thereto. Any review or due diligence by the Placement Agent of the Company, the Placement or other matters relating to the Placement will be performed solely for the benefit of the Placement Agent and shall not be on behalf of the Company.

(b) The Placement Agent may retain other brokers or dealers to act as co- or sub-placement agents on its behalf in connection with the Offering, with any fees they may be entitled to being paid out of the fee paid to such Placement Agent pursuant to Section 1(e) hereunder.

(c) It is understood and agreed that any written or oral guidance provided by the Placement Agent in connection with the engagement described herein is exclusively for the information of the board of directors and senior management of the Company (solely in their capacities as directors and officers of the Company) in connection with their consideration of the Note Purchases, and such guidance and the terms of this Agreement may not be disclosed to any third party (other than the Company’s outside law firm or accounting firm, in each case who has been informed by the Company of the confidential nature of such guidance and the terms of this Agreement and has agreed to treat such information confidentially or is otherwise subject to professional duties of confidentiality) or circulated or referred to publicly (including any reference to the fact that the Placement Agent has rendered such guidance or entered into this Agreement) or used or relied on by any other party or for any other purpose without the Company’s prior written consent, except to the extent the Company is required or requested to disclose such information (i) under compulsion of law (whether by oral question, interrogatory, subpoena, civil investigative demand or otherwise), by order or act of any court or governmental or regulatory authority or body or (ii) as otherwise required by applicable law, rule or regulation, including any listing exchange, or to the extent requested by the Staff of the Commission, any representative of the Nasdaq Stock Market LLC (“Nasdaq”) or any other regulatory agency; provided, in each case, the Company shall, to the extent practicable, provide the Placement Agent with prior written notice of such disclosure and cooperate, to a reasonable extent, with the Placement Agent in any efforts Placement Agent may make to obtain an order or other reliable assurance that confidential treatment will be accorded to such guidance and this Agreement. For the avoidance of doubt, this paragraph shall not prohibit any persons from disclosing information to any governmental, regulatory, or self-regulatory organization.

(d) Notwithstanding anything to the contrary contained in this Agreement, the Placement Agent shall have no obligation to purchase any of the Notes, or any liability to the Company if any prospective purchaser fails to consummate a purchase of or pay for any of the Notes.

(e) As compensation for services rendered, at Closing, and without duplication of any fees contemplated by the Engagement Agreement (as defined below) or the Placement Agency Agreement dated June 2, 2026 by and between the Company and Benchmark (the “Prior Placement Agency Agreement”), the Company shall pay to the Placement Agent the fees and expenses set forth below:

(i) A cash fee equal to the sum of the following gross proceeds received by the Company from the sale of the Notes at the closing of the offering (the “Closing”): (i) five percent (5.0%) of the initial \$50,000,000 of the gross proceeds, (ii) three and one-half percent (3.5%) of gross proceeds in excess of \$50,000,000 up to and including \$100,000,000 and (iii) two and one-half percent (2.5%) of gross proceeds in excess of \$100,000,000.

(ii) The Company also agrees to reimburse Placement Agent’s actual and incurred expenses up to \$125,000 (inclusive of Placement Agent’s legal counsel fees) which shall be payable upon Closing of the offering, provided that such expense cap in no way limits or impairs the indemnification and contribution provisions of this Agreement.

(iii) Upon the Closing of the offering, if within twelve (12) months following such time, the Company completes any equity-linked financing with, or receives any proceeds from, any of the investors with whom the Company had an introductory conference call or a meeting arranged by the Placement Agent during the term of the Engagement Agreement (as defined below) as identified in Exhibit A, then the Company will pay the Placement Agent upon the closing of such financing or receipt of such proceeds the compensation equivalent to that set forth in this Section. Notwithstanding anything to the contrary contained herein, the Company has the right to terminate this Agreement for cause in compliance with FINRA Rule 5110(g)(5)(B).

(iv) Benchmark agrees to waive any fee owed to Benchmark or co- or sub-placement agents pursuant to Section 1(e)(iii) of the Prior Placement Agency Agreement.

(f) The term of the Placement Agent’s engagement will be as provided in Section B of that certain Engagement Agreement dated July 7, 2026 between the Company and the Placement Agent (the “Engagement Agreement”). Notwithstanding anything to the contrary contained herein, the provisions concerning confidentiality, indemnification and contribution contained herein and the Company’s obligations contained in the indemnification provisions will survive any expiration or termination of this Agreement, and the Company’s obligation to pay fees actually earned and payable and to reimburse expenses actually incurred and reimbursable pursuant to Section 1 hereof and which are permitted to be reimbursed under FINRA Rule 5110(f)(2)(D)(i), will survive any expiration or termination of this Agreement. Nothing in this Agreement shall be construed to limit the ability of the Placement Agent or its Affiliates to pursue, investigate, analyze, invest in, or engage in investment banking, financial advisory or any other business relationship with Persons (as defined below) other than the Company. As used herein (i) “Persons” means an individual or corporation, partnership, trust, incorporated or unincorporated association, joint venture, limited liability company, joint stock company, government (or an agency or subdivision thereof) or other entity of any kind and (ii) “Affiliate” means any Person that, directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with a Person as such terms are used in and construed under Rule 405 under the Act.

2. *Note Purchases.* The Placement Agent agrees to use its reasonable best efforts to solicit offers from Purchasers to participate in Note Purchases. Neither the Placement Agent nor any of its Affiliates, nor any partners, directors, officers, agents, employees or controlling persons (if any) of the Placement Agent or any of its Affiliates, shall have any liability to the Company or any other Person for any act or omission on the part of any securities broker or dealer (other than the Placement Agent or its successors and assigns), commercial bank or trust company that solicits Note Purchases, and neither the Placement Agent nor any of such Persons referred to above related to the Placement Agent shall have any liability to the Company or any Person asserting claims on behalf of or in right of the Company in connection with or as a result of the Placement Agent’s engagement or any matter referred to in this Agreement. In soliciting Note Purchases, no securities broker or dealer (other than the Placement Agent or its successors and assigns), commercial bank or trust company shall be deemed to act as the Placement Agent’s agent or the agent of the Company and you, as the Placement Agent, shall not be deemed the agent of any other securities broker or dealer or of any commercial bank or trust company.

3. *Representations and Warranties of the Company.* The Company represents and warrants to you that:

(a) [Intentionally Omitted].

(b) The Company’s Annual Report on Form 20-F for the fiscal year ended December 31, 2025 (the “Annual Report”) and the Company’s Reports of Foreign Private Issuer on Form 6-K filed with the Commission on May 6, 2026 and June 5, 2026 (excluding Exhibit 99.8 attached thereto) (collectively, the “Disclosure Materials”) did not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading as of the Applicable Time and as of the Closing Date; provided, however, that the Company makes no representation or warranty in this Section with respect to any statement contained in the Disclosure Materials made in reliance upon and in conformity with information concerning the Placement Agent and furnished in writing by or on behalf of the Placement Agent to the Company expressly for use in the Disclosure Materials (such information, the “Placement Agent Information”); each document included in the Disclosure Materials, as of its date, as of the Applicable Time and as of the Closing Date, complied, in all material respects, with the requirements of the Exchange Act and did not include an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(c) Prior to the execution of this Agreement, the Company has not, directly or indirectly, offered or issued any Notes by means of any “prospectus” (within the meaning of the Act) or used any “prospectus” (within the meaning of the Act) in connection with the offer or issue of the Notes.

(d) None of the Company or any of its subsidiaries is or, after giving effect to the Placement and the application of the proceeds thereof in accordance with the Use of Proceeds, will be an “investment company” as defined in the Investment Company Act of 1940, as amended, without taking account of any exemption arising out of the number of holders of the Company’s securities.

(e) None of the Company, any of its subsidiaries or any of their respective affiliates has taken or will take, directly or indirectly, any action designed to or that has constituted, or that might be reasonably expected to cause or result in, under the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder (collectively, the “Exchange Act”) or otherwise, stabilization or manipulation of the price of any security of the Company or any of its subsidiaries to facilitate the sale or resale of the Notes.

(f) Each of the Company and its subsidiaries has been duly incorporated or organized, and is validly existing and in good standing (to the extent such concept is applicable) under the laws of their respective jurisdictions of incorporation or organization, are duly qualified to do business and are in good standing (to the extent such concept is applicable) in each jurisdiction in which their respective ownership or lease of property or the conduct of their respective businesses requires such qualification, and have all power and authority necessary to own or hold their respective properties and to conduct the businesses in which they are engaged, except where the failure to be so qualified or in good standing would not, individually or in the aggregate, have a material adverse effect on the business, properties, management (financial position), shareholders’ equity, results of operations or prospects of the Company and its subsidiaries taken as a whole or on the performance by the Company of its obligations under this Agreement and the Purchase Agreement (a “Material Adverse Effect”). The memorandum and articles of association of the Company comply with the requirements of applicable Cayman law and are in full force and effect. The Company owns, directly or indirectly, all of the equity interests of the subsidiaries free and clear of any lien, charge, security interest, encumbrance, right of first refusal or other restriction, and all the equity interests of the subsidiaries are validly issued and

are fully paid, nonassessable and free of preemptive and similar rights. The Company does not own or control, directly or indirectly, any corporation, association or other entity other than the subsidiaries listed in Exhibit 8.1 to the Annual Report and other than (i) those subsidiaries not required to be listed on Exhibit 8.1 by Item 601 of Regulation S-K under the Exchange Act, and (ii) those subsidiaries formed or acquired since the last day of the most recently ended fiscal year.

(g) The Company has an authorized capitalization as set forth under the heading “Section 10.A - Share Capital” in the Annual Report as of the date or dates set forth therein; all the outstanding share capital of the Company have been duly and validly authorized and issued and are fully paid and non-assessable and are not subject to any pre-emptive or similar rights. There are no outstanding rights (including pre-emptive rights or warrants, except as described in or expressly contemplated by the Disclosure Materials as of the date or dates set forth therein), or options to acquire, or instruments convertible into or exchangeable for, any share capital or other equity interest in the Company or any of its subsidiaries, or any contract, commitment, agreement, understanding or arrangement of any kind relating to the issuance of any share capital of the Company or any such subsidiary, any such convertible or exchangeable securities or any such rights, warrants or options; the share capital of the Company conform in all material respects to the description thereof contained in the Disclosure Materials as of the dates set forth therein. All the outstanding share capital or other equity interests of each subsidiary owned, directly or indirectly, by the Company have been duly and validly authorized and issued, are fully paid and non-assessable and are owned directly or indirectly by the Company, free and clear of any lien, charge, encumbrance, security interest, restriction on voting or transfer or any other claim of any third party, except as would not reasonably be expected to have a Material Adverse Effect;

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(h) The execution, delivery and performance by the Company of the Agreement, the Indenture, the Registration Rights Agreement, the Purchase Agreement and the consummation by it of the transactions contemplated hereby and thereby, and the Note Purchases, have been duly and validly authorized by all necessary corporate action, and no further consent or authorization of the Company, its Board of Directors (the “Board”) or its shareholders is required; the execution, delivery and performance by the Company of the Agreement, the Indenture, the Registration Rights Agreement, the Purchase Agreement by the Company and the issuance of the Notes, the application of the proceeds from the sale of the Notes in accordance with the Use of Proceeds, and the consummation by the Company of the transactions described therein will not (i) conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default under, result in the termination, modification or acceleration of, or result in the creation or imposition of any lien, charge or encumbrance upon any property, right or asset of the Company or any of its subsidiaries pursuant to, any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument to which the Company or any of its subsidiaries is a party or by which the Company or any of its subsidiaries is bound or to which any property, right or asset of the Company or any of its subsidiaries is subject, (ii) result in any violation of the provisions of the memorandum and articles of association, charter or by-laws or similar organizational documents of the Company or any of its subsidiaries or (iii) result in the violation of any Cayman Islands or U.S. law or statute or any judgment, order, rule or regulation of any court or arbitrator or governmental or regulatory authority or body having jurisdiction over the Company or any of its subsidiaries or their properties, except, in the case of clauses (i) and (iii) above, (1) as described in the Disclosure Materials, or (2) for any such conflict, breach, violation, default, lien, charge or encumbrance that would not reasonably be expected to have a Material Adverse Effect.

(i) Neither the Company nor any of its subsidiaries is (i) in violation of its respective memorandum and articles of association, charter or by-laws or similar organizational documents; (ii) in default, and no event has occurred that, with notice or lapse of time or both, would constitute such a default, in the due performance or observance of any term, covenant or condition contained in any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument to which the Company or any of its subsidiaries is a party or by which the Company or any of its subsidiaries is bound or to which any property or asset of the Company or any of its subsidiaries is subject or (iii) in violation of any statute, law, rule, regulation, ordinance, directive, judgment, decree, guideline, notice or order of any judicial, regulatory or other legal or governmental agency or body, foreign or domestic, having jurisdiction over the Company or any of its subsidiaries, except, in the case of clauses (ii) and (iii), (1) as described in the Disclosure Materials, or (2) for any such default or violation that would not have a Material Adverse Effect.

(j) [Intentionally Omitted]

(k) The Company and its subsidiaries have good and marketable title to, or have valid rights to lease or otherwise use, all items of real and personal property that are material to the respective businesses of the Company and its subsidiaries taken as a whole, in each case free and clear of all liens, encumbrances, claims and defects and imperfections of title except those that (i) do not materially interfere with the use made and proposed to be made of such property by the Company and its subsidiaries or (ii) could not reasonably be expected to have a Material Adverse Effect. The Indenture will, at the Applicable Time, be duly authorized, executed and delivered by the Company, and constitute a valid and legally binding agreement of the Company enforceable in accordance with its terms, except as may be limited by (i) applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws now or thereafter in effect relating to creditors’ rights generally, (ii) general principles of equity (regardless of whether enforcement is considered in a proceeding in equity or law) (iii) applicable laws relating to the enforcement of foreign judgments in the Cayman Islands and (iv) any limitation on enforcement that may arise under the Companies Act (Revised) of the Cayman Islands in the event of a winding-up of the Company.

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(l) No consent, approval, authorization, order, registration or qualification of or with any court or arbitrator or any governmental or regulatory authority or applicable law is required for the issue and sale of the Notes and the consummation of the Placement, except for such consents, approvals, authorizations, orders and registrations or qualifications (i) as may be required under applicable state securities laws or Blue Sky laws of the United States, in connection with the issuance of the Notes and the listing of the Notes on the Nasdaq Capital Market, and (ii) as have been previously obtained by the Company;

(m) The Company has the requisite corporate power and authority to enter into the Notes, the Purchase Agreement, the Indenture, the Registration Rights Agreement and this Agreement (the “Transaction Documents”) perform the transactions contemplated by the Transaction Documents and to issue the Notes in accordance with the terms hereof and thereof.

(n) The consolidated financial statements (including the related notes thereto) of the Company and its consolidated subsidiaries included or incorporated by reference in the Disclosure Materials comply in all material respects with the applicable requirements of the Act and present fairly the financial position of the Company and its consolidated subsidiaries as of the dates indicated and the results of their operations and the changes in their cash flows for the periods specified; such consolidated financial statements have been prepared in conformity with the International Financial Reporting Standards as issued by the International Accounting Standards Boards (“IFRS”) applied on a consistent basis throughout the periods covered thereby, and any supporting schedules included in the Disclosure Materials present fairly the information required to be stated therein; and the other financial information included in the Disclosure Materials has been derived from the accounting records of the Company and its consolidated subsidiaries and presents fairly the information shown thereby; all disclosures included in the Disclosure Materials regarding “non-IFRS financial measures” (as such term is defined by the rules and regulations of the Commission) comply in all material respects with Regulation G of the Exchange Act and Item 10 of Regulation S-K of the Act, to the extent applicable. The Company and its consolidated subsidiaries do not have any material liabilities or obligations, direct or contingent (including any off-balance sheet obligations), that are not described in the Disclosure Materials. The interactive data in eXTensible Business Reporting Language included in the Disclosure Materials fairly present the information called for in all material respects and have been prepared in accordance with the Commission’s rules and guidelines applicable thereto.

(o) There are no legal, governmental or regulatory investigations, actions, demands, claims, suits, arbitrations, inquiries or proceedings (“Actions”) pending to which the Company or any of its subsidiaries is a party or to which any property of the Company or any of its subsidiaries is the subject that, if determined adversely to

the Company or any of its subsidiaries, would reasonably be expected to have a Material Adverse Effect or which are otherwise material in the context of the sale of the Notes or could, in the aggregate, reasonably be expected to have a Material Adverse Effect on the performance by the Company of its obligations under the Transaction Documents or the consummation of the Placement; no such Actions are, to the Company's Knowledge, threatened or contemplated by any governmental or regulatory authority or threatened by others. There are (i) no current or pending Actions or statutes or regulations that would be required to be described in a registration statement on Form F-3 filed under the Act that are not so described in the Disclosure Materials, and (ii) no contracts or other documents that would be required to be described in or filed as an exhibit to a registration statement on Form F-3 filed under the Act (collectively, the "Filed Documents") that are not so described in the Disclosure Materials (excluding, for the avoidance of doubt, the Transaction Documents). To the Knowledge of the Company, there is no actual or threatened material breach by any other party to any Filed Documents of their respective obligations contemplated by the terms thereof.

(p) Each of the Company and its subsidiaries has not received any written notice from any governmental authority of or been charged by any governmental authority with the violation of any applicable law, except for any such violation that would not be reasonably expected to have a Material Adverse Effect.

(q) MarcumAsia CPAs LLP (the "Auditors"), whose report on the consolidated financial statements of the Company is filed with the Commission as part of the Annual Report with the Commission and incorporated into the Disclosure Materials are and during the periods covered by their report, were independent registered public accountants within the meaning of the Act and the Public Company Accounting Oversight Board (United States).

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(r) Since January 1, 2024, the Company has timely filed all certifications and statements the Company is required to file or furnish under (i) Rule 13a-14 or Rule 15d-14 under the Exchange Act or (ii) 18 U.S.C. Section 1350 (Section 906 of the Sarbanes-Oxley Act) with respect to all Exchange Act Reports with respect to which the Company is required to file such certifications and statements thereunder.

(s) No labor disturbance by or dispute with employees of the Company or any of its subsidiaries exists or, to the Knowledge of the Company, is contemplated or threatened, and the Company is not aware of any existing or imminent labor disturbance by, or dispute with, the employees of any of its or its subsidiaries' principal suppliers or customers, except (1) as otherwise disclosed in the Disclosure Materials or (2) as would not have, or be reasonably expected to have, a Material Adverse Effect. Neither the Company nor any of its subsidiaries has received any notice of cancellation or termination with respect to any collective bargaining agreement to which it is a party.

(t) Since the date of the most recent financial statements of the Company included in the Disclosure Materials, there has been (i) no dividend or distribution of any kind declared, paid or made by the Company on any class of its share capital and (ii) no material adverse change in the share capital, short-term indebtedness or long-term indebtedness of the Company and its subsidiaries, taken as a whole. Neither the Company nor any of its subsidiaries has entered (A) into any material transaction or agreement or incurred any material liability or obligation, direct or contingent, that is not disclosed or contemplated in the Disclosure Materials (excluding, for the avoidance of doubt, the Placement), or (B) sustained any material loss or material interference with its business from fire, explosion, flood or other calamity, whether or not covered by insurance, or from any labor dispute or court or governmental action, order or decree.

(u) No relationship, direct or indirect, exists between or among the Company or any of its subsidiaries, on the one hand, and the directors, officers, shareholders, customers, suppliers or other affiliates of the Company or any of its subsidiaries, on the other, that would be required to be described in a registration statement of the Company pursuant to Item 404 of Regulation S-K (or such successor provision) that has not been described in the Disclosure Materials.

(v) The proceeds from the sale of the Notes by the Company shall be used by the Company and its subsidiaries in accordance with the Use of Proceeds. The application of the net proceeds received by the Company in connection with the offering of the Notes in accordance with the Use of Proceeds will not (i) contravene any provision of any laws applicable to the Company or any of its subsidiaries, (ii) contravene the memorandum and articles of association, charter or other constitutive documents of the Company or any of its subsidiaries, (iii) contravene the terms or provisions of, or constitute a default under, any indenture, mortgage, deed of trust, loan agreement, note, lease or other agreement or instrument currently binding upon the Company or any of its subsidiaries, or (iv) contravene or violate the terms or provisions of any governmental authorization applicable to any of the Company or any of its subsidiaries, except, in the case of (iii) and (iv) above, such contravention or violation that would not have a Material Adverse Effect.

(w) [Intentionally Omitted]

(x) The Company and its subsidiaries possess all licenses, sub-licenses, certificates, permits and other authorizations issued by, and have made all declarations and filings with, the appropriate federal, state, local or foreign governmental or regulatory authorities that are necessary for the ownership or lease of their respective properties or the conduct of their respective businesses as described in the Disclosure Materials, except where the failure to possess or make the same would not have a Material Adverse Effect. Except as described in the Disclosure Materials or would not have a Material Adverse Effect neither the Company nor any of its subsidiaries received notice of any revocation or modification of any such license, sub-license, certificate, permit or authorization or has any reason to believe that any such license, sub-license, certificate, permit or authorization will not be renewed in the ordinary course. This Section does not relate to environmental matters, such items being the subject of Section 3(z) below.

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(y) The Company and its subsidiaries maintain systems of "internal control over financial reporting" (as defined in Rule 13a-15(f) of the Exchange Act) that comply with the requirements of the Exchange Act, as applicable to the Company, and have been designed by, or under the supervision of, their respective principal executive and principal financial officers, or persons performing similar functions, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with IFRS. The Company and its subsidiaries maintain internal accounting controls designed to provide reasonable assurance that (i) transactions are executed in accordance with management's general or specific authorizations; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with IFRS and to maintain asset accountability; (iii) access to assets is permitted only in accordance with management's general or specific authorization; and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences. Except as disclosed in the Disclosure Materials, there are no material weaknesses in the Company's internal controls (it being understood that the Company is not required as of the date hereof to comply with Section 404(b) of the Sarbanes-Oxley Act of 2002 (the "Sarbanes-Oxley Act"). Except as disclosed in the Disclosure Materials, as of the date of the most recent balance sheet of the Company reviewed or audited by the Company's auditors and the Audit Committee of the Board, there was: (i) no significant deficiency and/or material weakness in the design or operation of internal controls over financial reporting which have adversely affected or are reasonably likely to adversely affect the Company's ability to record, process, summarize and report financial information; (ii) no fraud, whether or not material, that involves management or other employees who have a significant role in the Company's internal controls over financial reporting; and (iii) the interactive data in eXtensible Business Reporting Language included in the Disclosure Materials fairly present the information called for in all material respects and have been prepared in accordance with the Commission's rules and guidelines applicable thereto.

(z) (i) The Company and each of its subsidiaries (x) are and since January 1, 2023 have been in compliance with all, and have not violated any, applicable federal, state, local and foreign laws (including common law), rules, regulations, decisions, judgments, decrees, orders and other legally enforceable requirements relating to

pollution, the protection of human health or safety, the environment, hazardous or toxic substances or wastes, chemicals, pollutants or contaminants (collectively, “Hazardous Substances”), or the protection of natural resources from Hazardous Substances (collectively, “Environmental Laws”); (y) have received and are and have been in compliance with all, and have not violated any, permits, licenses, certificates or other authorizations or approvals required of them under any Environmental Laws to conduct their respective businesses; and (z) have not received notice of any actual or potential liability or obligation under or relating to, or any actual or potential violation of, any Environmental Laws, including for the investigation or remediation of any Hazardous Substances, and have no Knowledge of any pending or threatened notice, claim or demand; and (ii) there are no costs, obligations or liabilities associated with Environmental Laws of or relating to the Company or any of its subsidiaries, except in the case of each of (i) and (ii) above, (1) as otherwise disclosed in the Disclosure Materials or (2) for any such matter as would not reasonably be expected to have a Material Adverse Effect; and (iii) except as described in the Disclosure Materials, (x) there is no proceeding that is pending, or to the Company’s Knowledge, that is contemplated, against the Company or any of its subsidiaries under any Environmental Laws in which a governmental entity is also a party, (y) the Company and its subsidiaries are not aware of any facts or issues regarding compliance with Environmental Laws that would reasonably be expected to have a material effect on the capital expenditures, earnings or competitive position of the Company and its subsidiaries, and (z) none of the Company or its subsidiaries anticipates any material capital expenditures relating to any Environmental Laws.

(aa) (i) Each employee benefit plan, within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”), that is maintained, administered or contributed to by the Company or any of its subsidiaries for employees or former employees, directors or independent contractors of the Company, or under which the Company has had or has any present or future obligation or liability, has been maintained in material compliance with its terms and the requirements of any applicable laws, including but not limited to ERISA and the Internal Revenue Code of 1986, as amended (the “Code”); (ii) no prohibited transaction, within the meaning of Section 406 of ERISA or Section 4975 of the Code, has occurred which would result in a material liability to the Company with respect to any such plan excluding transactions effected pursuant to a statutory or administrative exemption; (iii) with respect to any such plan no event has occurred (including a “reportable event” as such term is defined in Section 4043 of ERISA) and no condition exists that would subject the Company to any material tax, fine, lien, penalty, or liability imposed by ERISA, the Code or other applicable law; and for each such plan that is subject to the funding rules of Section 412 of the Code or Section 302 of ERISA, no “accumulated funding deficiency” as defined in Section 412 of the Code has been incurred, whether or not waived, and the fair market value of the assets of each such plan (excluding for these purposes accrued but unpaid contributions) exceeds the present value of all benefits accrued under such plan determined using reasonable actuarial assumptions.

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(bb) Except as otherwise disclosed in the Disclosure Materials or where the failure to have any of the following would not reasonably be expected to have a Material Adverse Effect: (i) the Company and its subsidiaries own or have valid and enforceable rights to use all patents, trademarks, service marks, trade names, domain names and other source indicators, copyrights and copyrightable works, know-how (including trade secrets and other unpatented or unpatentable proprietary or confidential information, systems or procedures) and all other similar intellectual property, industrial property and proprietary rights (including all registrations and applications for registration of, and all goodwill associated with, the foregoing) (collectively, “Intellectual Property”) used in or necessary for the conduct of their respective businesses and as proposed to be conducted; (ii) to the Knowledge of the Company, the Company’s and its subsidiaries’ conduct of their respective businesses has not infringed, misappropriated or otherwise violated any Intellectual Property of any third party; (iii) the Company and its subsidiaries have not received any written notice and are not otherwise aware of any pending or threatened claim alleging infringement, misappropriation or other violation of any Intellectual Property of any third party, or challenging the validity, enforceability, scope or ownership of any Intellectual Property of the Company or its subsidiaries; (iv) to the Knowledge of the Company, no Intellectual Property owned by or exclusively licensed to the Company and its subsidiaries has been infringed, misappropriated or otherwise violated by any third party; (v) to the Knowledge of the Company, all Intellectual Property owned by or exclusively licensed to the Company and its subsidiaries is valid and enforceable in all material respects; and (vi) the Company and its subsidiaries have taken reasonable steps in accordance with normal industry practice to maintain the confidentiality of all Intellectual Property, the value of which to the Company or any of its subsidiaries is contingent upon maintaining the confidentiality thereof.

(cc) Except as otherwise disclosed in the Disclosure Materials, the Company and its subsidiaries have paid all taxes in all jurisdictions and filed all tax returns required to be paid or filed through the date hereof except, in each case, where the failure to pay or file would not have a Material Adverse Effect; and except as otherwise disclosed in the Disclosure Materials, there is no tax deficiency that has been, or would reasonably be expected to be, asserted against the Company or any of its subsidiaries or any of their respective properties or assets, except a tax deficiency that would not have a Material Adverse Effect.

(dd) Except as otherwise disclosed in the Disclosure Materials, the Company and the subsidiaries have insurance covering their respective material properties, operations, personnel and businesses, which insurance is in amounts and insures against such losses and risks as are appropriate and commercially reasonable (including reference to standard industry practice) to protect the Company and the subsidiaries and their respective businesses (which shall exclude business interruption insurance); and except as otherwise disclosed in the Disclosure Materials, neither the Company nor any of its subsidiaries has (i) received notice from any insurer or agent of such insurer that capital improvements or other expenditures are required or necessary to be made in order to continue such insurance or (ii) to the Company’s Knowledge, any reason to believe that it will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its business without a significant increase in cost other than increases in premium costs generally applicable to the types of insurance maintained by the Company. There is no material insurance claim made by or against the Company or any of its subsidiaries, pending, outstanding or threatened, and no facts or circumstances exist which would reasonably be expected to give rise to any such claim and all due premiums in respect thereof have been paid.

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(ee) Neither the Company nor any of its officers and directors nor, to the Knowledge of the Company, its affiliates has taken, directly or indirectly, any action designed to or that might cause or result in stabilization or manipulation of the price of the Ordinary Shares or of any “reference security” (as defined in Rule 100 of Regulation M under the Exchange Act (“Regulation M”)) with respect to the Ordinary Shares, whether to facilitate the sale of the Notes or otherwise, in each case that would violate Regulation M, and has taken no action which would directly or indirectly violate Regulation M.

(ff) The Ordinary Shares are registered pursuant to Section 12(b) of the Exchange Act, and the Company has taken no action designed to, or which to its Knowledge is likely to have the effect of, terminating the registration of the Ordinary Shares under the Exchange Act, nor has the Company received any notification that the Commission is contemplating terminating such registration. The Company has not received notice from Nasdaq to the effect that the Company is not in compliance with the listing or maintenance requirements of Nasdaq.

(gg) Neither the Company nor any of its subsidiaries, nor, to the Knowledge of the Company, any of the Company’s affiliates, any director, officer, agent, employee or other person associated with or acting on behalf of the Company or any of its subsidiaries, has in the course of its actions for, or on behalf of, the Company or any of its subsidiaries: (i) made any unlawful contribution, gift or other unlawful expense relating to political activity; (ii) made any direct or indirect bribe, kickback, rebate, payoff, influence payment, or otherwise unlawfully provided anything of value, to any “foreign official” (as defined in the U.S. Foreign Corrupt Practices Act of 1977, as amended (collectively, the “FCPA”)) or domestic government official; or (iii) violated or is in violation of any provision of the FCPA, the Bribery Act 2010 of the United Kingdom, as amended (the “Bribery Act 2010”), or any other applicable anti-corruption or anti-bribery statute or regulation. The Company and its subsidiaries and, to the Knowledge of the Company, the Company’s affiliates, have conducted their respective businesses in compliance with the FCPA, Bribery Act 2010, and all other applicable anti-corruption and anti-bribery statutes or regulations, and have instituted and maintain policies and procedures designed to ensure, and which are reasonably expected to ensure, continued compliance therewith and with the representations and warranties contained herein. Neither the Company nor any of its subsidiaries will

use, directly or indirectly, the proceeds of the offering in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any person in violation of any applicable anti-corruption or anti-bribery laws.

(hh) The Company and its subsidiaries' information technology assets and equipment, computers, systems, networks, hardware, software, websites, applications, and databases (including the data of their respective customers, employees, suppliers, vendors and any third party data maintained by or on behalf of the Company and its subsidiaries) (collectively, "IT Systems") are adequate in all material respects for, and operate and perform in all material respects as required in connection with, the operation of the business of the Company and to the Knowledge of the Company, its subsidiaries do not contain any bugs, errors, defects, Trojan horses, time bombs, malware and other corruptants that would reasonably be expected to have a Material Adverse Effect. The Company and its subsidiaries have implemented and maintained appropriate controls, policies, procedures, and safeguards necessary to maintain and protect their material confidential information and the integrity, continuous operation, redundancy and security of all IT Systems and data (including all personal, personally identifiable, sensitive, confidential or regulated data (collectively, "Data")) used in connection with their businesses. Without limiting the foregoing, the Company and its subsidiaries have used reasonable efforts to establish, maintain, implement and comply with reasonable information technology, information security, cyber security and data protection controls, policies and procedures, including oversight, access controls, encryption, technological and physical safeguards and business continuity/disaster recovery and security plans that are designed to protect against and prevent breach, destruction, loss, unauthorized distribution, use, access, disablement, misappropriation or modification, or other compromise or misuse of or relating to any information technology system or Data used in connection with the operation of the Company's and its subsidiaries' businesses ("Breach") and to the Knowledge of the Company there has been no such Breach that has had or would reasonably be expected to have a Material Adverse Effect. The Company and its subsidiaries have not been notified of and have no Knowledge of any event or condition that would reasonably be expected to result in, any such Breach. This representation is limited in each case to the extent that such breach or noncompliance would not reasonably be expected to have a Material Adverse Effect, and except as otherwise disclosed in the Disclosure Materials.

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(ii) The Company and its subsidiaries have complied, and are presently in compliance, in all material respects, with all internal and external privacy policies, contractual obligations, industry standards, applicable laws, statutes, judgments, orders, rules and regulations of any court or arbitrator or other governmental or regulatory authority and any legal obligations regarding the collection, use, transfer, import, export, storage, protection, disposal and disclosure by the Company and its subsidiaries of Data ("Data Security Obligations"). Neither the Company nor any of its subsidiaries has received any notification of or complaint regarding, or have knowledge of any other facts that, individually or in the aggregate, would reasonably indicate non-compliance with any applicable Data Security Obligation in all material respects. There is no pending, or threatened, action, suit or proceeding by or before any court or governmental agency, authority or body pending or to the Knowledge of the Company, threatened alleging non-compliance with any applicable Data Security Obligation. The Company and its subsidiaries have at all times taken reasonable steps in accordance with industry standard practices to protect Data used in connection with their businesses against loss and against unauthorized access, use, modification, disclosure or other misuse. There has been no unauthorized access to such information. To the extent applicable to the operations of the Company and its subsidiaries, the Company and its subsidiaries are in material compliance with the European Union General Data Protection Regulation (and all other laws and regulations applicable to the operations of the Company and its subsidiaries with respect to Data).

(jj) The operations of the Company and each of its subsidiaries are and have been conducted at all times in compliance in all material respects with applicable financial record keeping and reporting requirements of the Currency and Foreign Transactions Reporting Act of 1970, as amended, the applicable money laundering statutes of all jurisdictions where the Company or any of its subsidiaries conducts business, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, that have been issued, administered or enforced by any governmental agency (collectively, the "Money Laundering Laws") and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator or non-governmental authority involving the Company or any of its subsidiaries with respect to the Money Laundering Laws is pending or, to the Knowledge of the Company, threatened.

(kk) Neither the issuance, sale and delivery of the Notes nor the application of the proceeds thereof by the Company in accordance with the Use of Proceeds will violate Regulation T, U or X of the Board of Governors of the Federal Reserve System or any other regulation of such Board of Governors.

(ll) Neither the Company nor any of its subsidiaries, nor, to the Knowledge of the Company, after due inquiry, any of the Company's affiliates, any director, officer, agent, employee or affiliate of the Company or any of its subsidiaries is (i) currently the subject or the target of any sanctions administered or enforced by the Office of Foreign Assets Control of the U.S. Treasury Department, the U.S. Department of State, the United Nations Security Council, the European Union, His Majesty's Treasury, or other relevant sanctions authority (collectively, "Sanctions"); or (ii) located, organized or resident in a country or territory that is the subject or target of Sanctions (including, without limitation, Cuba, Iran, North Korea, Syria, the Crimea region of Ukraine, the so-called Donetsk People's Republic and the so-called Luhansk People's Republic); and the Company will not directly or indirectly use the proceeds of the offering, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other person or entity, for the purpose of financing or facilitating the activities or business of any person, or in any country or territory, that at the time of such financing or facilitation and is the subject or target of Sanctions or in any other manner that will result in a violation by any person (including any person participating in the Placement whether as an underwriter, advisor, investor or otherwise) of Sanctions. Neither the Company nor, to the Knowledge of the Company, any of its subsidiaries, nor any of their directors, officers, employees, or affiliates acting in such capacity has violated any laws or regulations relating to economic sanctions, export controls, import, customs, or antiboycott laws, in each case only in their capacity acting for, on behalf of, or otherwise in relation to the Company or any of its subsidiaries. Each of the Company and its subsidiaries is and has been in possession of and in compliance with any and all licenses, registrations, and permits that may be required for its lawful conduct under any economic sanctions, import, and export control laws or regulations. The Company and each of its subsidiaries have not knowingly engaged in since April 24, 2019, are not now knowingly engaged in, and will not engage in, any dealings or transactions with any individual or entity, or in any country or territory, that at the time of the dealing or transaction, is or was the subject or target of Sanction. Each of the Company and its subsidiaries have instituted, and maintain, policies and procedures designed to promote and achieve compliance with Sanctions or applicable export control laws and regulations administered by the Bureau of Industry and Security, or other relevant authorities, including the Export Administration Regulations.

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(mm) Except pursuant to any other financing arrangements the Company has entered into or may enter into from time to time and disclosed in the Disclosure Materials and the Transaction Documents, no subsidiary of the Company is currently prohibited, directly or indirectly, under any applicable laws or regulations, or agreement or other instrument to which it is a party or is subject, from paying any dividends to the Company, from making any other distribution on such subsidiary's share capital or similar ownership interest, from repaying to the Company any loans or advances to such subsidiary from the Company or from transferring any of such subsidiary's properties or assets to the Company or any other subsidiary of the Company except as would be reasonably expected to have a Material Adverse Effect.

(nn) Except for any Cayman Islands stamp duty if the Transaction Documents are executed in, or brought to, the Cayman Islands (including being produced to a court of the Cayman Islands) in which case nominal stamp duty would be payable, no stamp duties or other issuance or transfer taxes are payable in the Cayman Islands, or any political subdivision or taxing authority thereof solely in connection with (A) the execution, delivery and performance of the Transaction Documents, (B) the issuance and delivery of the Notes in the manner contemplated by this Agreement and the Transaction Documents, or (C) the sale and delivery of the Notes as contemplated in the Transaction Documents.

(oo) Neither the Company nor any of its subsidiaries or their properties or assets has immunity under Cayman Islands, U.S. federal or New York state law from

any legal action, suit or proceeding, from the giving of any relief in any such legal action, suit or proceeding, from set-off or counterclaim, from the jurisdiction of any Cayman Islands, U.S. federal or New York state court, from service of process, attachment upon or prior to judgment, or attachment in aid of execution of judgment, or from execution of a judgment, or other legal process or proceeding for the giving of any relief or for the enforcement of a judgment, in any such court with respect to their respective obligations, liabilities or any other matter under or arising out of or in connection herewith; and, to the extent that the Company or any of its subsidiaries or any of its properties, assets or revenues may have or may hereafter become entitled to any such right of immunity in any such court in which proceedings arising out of, or relating to the transactions contemplated by this Agreement, may at any time be commenced, the Company has waived or will waive, pursuant to Section 17 of this Agreement, and upon execution of the Purchase Agreement, pursuant to Section 4.10 of the Purchase Agreement, and it will cause its subsidiaries to waive, such right to the extent permitted by law.

(pp) Any final and conclusive judgment for a fixed, definite or determined sum of money (not being a judgment in respect of taxes, fines or other penalty rendered by any U.S. District Court and other courts of the United States in the State of New York having jurisdiction under its own laws in respect of any suit, action or proceeding against the Company based upon this Agreement, provided such judgment(i) was not obtained by fraud, (ii) is not of a kind, the enforcement of which is contrary to public policy in the Cayman Islands, (iii) was not obtained in proceedings contrary to natural justice, and (iv) is not inconsistent with a prior Cayman Islands judgment on the same matter, would be enforceable against the Company by an action commenced in the courts of the Cayman Islands, without re-examination or re-litigation of the merits of the matters adjudicated upon.

(qq) The choice of laws of the State of New York as the governing law of this Agreement is a valid choice of law under the laws of the Cayman Islands and will be recognized and upheld by the courts of the Cayman Islands, subject to exceptions including but not limited to fraud, public policy, natural justice, mandatory provisions of Cayman Islands law (including insolvency law), and the qualification that Cayman courts will not apply any provision of New York law that constitutes a revenue, penal or other public law. The Company has the power to submit, and pursuant to Section 12 of this Agreement and Section 3.1(yy) of the Purchase Agreement, has or upon execution and delivery of the Purchase Agreement by the Company, will have, legally, validly, effectively and irrevocably submitted, to the personal jurisdiction of each New York state and United States federal court sitting in the City of New York and has, or in the case of the Purchase Agreement, upon execution and delivery by the Company, will have, validly and irrevocably waived any objection to the laying of venue of any suit, action or proceeding brought in such court.

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(rr) The indemnification and contribution provisions set forth in Section 8 hereof do not contravene Cayman Islands law.

(ss) Based on the information available to the Company at the time of the filing of the Form 20-F dated April 15, 2026, the Company believes that it was not a “passive foreign investment company” as defined in Section 1297 of the Code for the Company’s taxable year ended December 31, 2025.

(tt) The legality, validity or enforceability of any of the Disclosure Materials, the Transaction Documents or the Notes in any jurisdiction in which the Company is organized or does business is not dependent upon such document being submitted into, filed or recorded with any court or other authority in any such jurisdiction on or before the date hereof or that any tax, imposition or charge be paid in any such jurisdiction on or in respect of any such document. Any final judgment for a fixed sum of money rendered by a New York Court having jurisdiction under its own domestic laws in respect of any suit, action or proceeding against the Company based upon the Transaction Documents would be recognized and enforced by Cayman courts without reexamining the merits of the case.

(uu) [Intentionally omitted].

(vv) The Company is a “foreign private issuer” as defined in Rule 405 under the Act.

(ww) The Company has not relied upon the Placement Agent or legal counsel for the Placement Agent for any legal, tax or accounting advice in connection with the offering and sale of the Notes.

(xx) No forward-looking statement (within the meaning of Section 27A of the Act and Section 21E of the Exchange Act) contained in any of the Disclosure Materials has been made or reaffirmed without a reasonable basis or has been disclosed other than in good faith.

(yy) Neither the Company nor any of its subsidiaries has sent or received any communication regarding termination of, or, where applicable, intent not to renew, any of the material contracts or agreements referred to or described in the Disclosure Materials or filed as an exhibit to the Annual Report, and no such termination or nonrenewal has been threatened by the Company or any of its subsidiaries or, to the Knowledge of the Company, by any other party to any such contract or agreement.

(zz) Except as disclosed in the Disclosure Materials, there are no contracts, agreements or understandings between the Company and any person granting such person the right to require the Company to file a registration statement under the Act with respect to any securities of the Company owned or to be owned by such person or to require the Company to include such securities in the securities registered pursuant to a registration statement or in any securities being registered pursuant to any other registration statement filed by the Company under the Act other than the Registration Rights Agreement.

(aaa) The Company is subject to Section 13 or 15(d) of the Exchange Act.

(bbb) The Company has not issued any debt securities that have been or are rated by any “nationally recognized statistical rating organization”, as defined in Section 3(a)(62) of the Exchange Act.

(ccc) The Company maintains a system of “disclosure controls and procedures” (as defined in Rule 13a-15(e) under the Exchange Act) that complies with the requirements of the Exchange Act and is designed to ensure that material information relating to the Company and its subsidiaries is made known to the Company’s management as appropriate. The Company has carried out evaluations of the effectiveness of its disclosure controls and procedures as required by Rule 13a-15 under the Exchange Act. The Company’s disclosure controls and procedures were effective as of December 31, 2025.

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(ddd) The statements set forth in the Annual Report under the headings “Item 4. Information on the Company - B. Business Overview,” “Item 5. Operating and Financial Review and Prospects - A.- Operating Results,” “Item 5. Operating and Financial Review and Prospects - B - Liquidity and Capital Resources,” “Item 6. Directors, Senior Management and Employees - B. Compensation,” “Item 6. Directors, Senior Management and Employees - C. Board Practices,” “Item 8. Financial Information - A. Consolidated Statements and Other Financial Information - Legal Proceedings,” “Item 10. Additional Information - B. Memorandum and Articles of Association” and “Item 10. Additional Information - E. Taxation,” as supplemented or modified by the information included in the Disclosure Materials, insofar as such statements summarize legal matters, agreements, documents or proceedings discussed therein, are accurate and fair summaries of such legal matters, agreements, documents or proceedings in all material respects.

(eee) Any third-party statistical, industry and market-related data included or incorporated by reference in the Disclosure Materials are based on or derived from

sources that the Company believes to be reliable and accurate, and such data agree with the sources from which they are derived. The Company has obtained written consents for the use of such data from such sources to the extent required as determined in the Company's reasonable discretion.

(fff) To the Company's Knowledge, the Company's directors and executive officers are not a party to any legal, governmental or regulatory proceedings that would result in such director or officer to be unsuitable under applicable law or exchange rules for his or her position on the Company's Board or in the Company.

(ggg) The section entitled "Item 5. Operating and Financial Review and Prospects - E. Critical Accounting Estimates" in the Annual Report, as updated by the Disclosure Materials, fairly and accurately describes (i) material accounting policies that the Company believes are the most significant in the portrayal of the Company's financial condition and results of operations and that require management's most difficult, subjective or complex judgments, (ii) material judgments, estimates and uncertainties affecting the application of the foregoing critical accounting policies and (iii) the likelihood that different amounts would be reported under different conditions or using different assumptions and an explanation thereof (to the extent required to be so disclosed). The Company's directors and management have reviewed and agreed with the selection, application and disclosure of the Company's critical accounting policies as described in the Annual Report or the Disclosure Materials.

(hhh) The Disclosure Materials fairly and accurately describe in all material respects the material trends, demands, commitments and events known to the Company, that the Company believes would materially affect its liquidity and are reasonably likely to occur (other than the Placement). The Disclosure Materials fairly and accurately describe in all material respects all off-balance sheet transactions, arrangements, commitments and obligations of the Company and its subsidiaries.

(iii) The Company is not, and, as of July 13, 2022, was not an issuer as described in Rule 144(i)(1)(i) of the Act.

(jjj) Neither the Company nor any of its subsidiaries (1) is a "covered foreign person," as that term is defined in 31 C.F.R. 850.209 ("Covered Foreign Person"), or (2) has plans to engage, directly or indirectly, make an investment, become a party of any joint venture, or other arrangement or engage in any other activity as a result of which the Company would be or become a Covered Foreign Person.

(kkk) Subject to such qualifications and assumptions as are set forth in the opinion of relevant local counsel for the Company, the Placement Agent is entitled to sue as plaintiffs in the courts of the jurisdiction of incorporation and domicile of the Company for the enforcement of its rights under this Agreement and such access to such courts will not be subject to any conditions which are not applicable to residents of such jurisdiction or a company incorporated in such jurisdiction, other than the requirement to post a bond or guarantee with respect to court costs and legal fees.

(lll) Except pursuant to this Agreement and as contemplated under the Placement, neither the Company nor any of its subsidiaries has incurred any liability for any finder's or broker's fee or agent's commission in connection with the offering, sale and delivery of the Notes or any other Placement.

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(mmm) The Notes to be issued by the Company pursuant to the Indenture and the Purchase Agreement have been duly and validly authorized and, when issued and delivered against payment therefor as provided in the Purchase Agreement, will be duly and validly issued, fully paid, non-assessable and free of statutory and contractual preemptive rights, resale rights, rights of first refusal and similar rights and will be free of any restriction upon the voting or transfer thereof pursuant to Cayman Islands law or the Company's memorandum and articles of association, charter or by-laws, similar organizational documents or any agreement or other instrument to which the Company is a party except as otherwise set forth in the Disclosure Materials.

(nnn) [Reserved]

(ooo) Except as otherwise disclosed in the Disclosure Materials, no approvals are currently required in any jurisdiction in order for the Company to pay interest, principal, premium, if any, additional amounts, if any, or other payments to be made under the Notes by the Company to the Purchasers. Any interest, principal, premium, if any, additional amounts, if any, or such other payments to be made under the Notes by the Company to the Purchasers may be paid by the Company in United States dollars and freely transferred out of the Cayman Islands, without the necessity of obtaining any governmental authorization in the Cayman Islands or any political subdivision or taxing authority thereof or therein, and no such payments made to the holders thereof or therein who are non-residents of the Cayman Islands will be subject to income or other taxes imposed by way of withholding or deduction under laws and regulations of any constituent jurisdiction of the Cayman Islands or any political subdivision or taxing authority thereof or therein.

(ppp) Except pursuant to this Agreement, neither the Company nor any of its subsidiaries is party to any contract, agreement or understanding with any person that would give rise to a valid claim against any of them or the Placement Agent for a brokerage commission, finder's fee or like payment in connection with the offering and sale of the Notes.

In addition, any certificate signed by any officer of the Company or any of its subsidiaries and delivered to the Placement Agent or counsel for the Placement Agent in connection with the offering of the Notes shall be deemed to be a representation and warranty by the Company or such subsidiary, as the case may be, as to matters covered thereby, to the Placement Agent.

#### 4. *Certain Covenants of the Company.* The Company agrees:

(a) to meet with the Placement Agent and its representatives to discuss such due diligence matters and to provide such documents as the Placement Agent may require;

(b) to furnish such information as may be reasonably required and otherwise to cooperate in qualifying the Notes for offering and issue under the securities or blue sky laws of such states or other jurisdictions as you may designate; provided, however, that the Company shall not be required to qualify as a foreign corporation or to consent to the service of process under the laws of any such jurisdiction (except service of process with respect to the offering and issue of the Notes); and to promptly advise you of the receipt by the Company of any notification with respect to the suspension of the qualification of the Notes for offer or issue in any jurisdiction or the initiation or threatening of any proceeding for such purpose;

(c) to (i) not file with the Commission any document regarding the Placement without the prior approval of the Placement Agent and its counsel (such approval not to be unreasonably withheld, conditioned or delayed); and (ii) advise you promptly, confirming such advice in writing, of any request by the Commission for information with respect to the offering of the Notes;

(d) to make generally available to its security holders, and to deliver to you, an earnings statement of the Company which will satisfy the provisions of Section 11(a) of the Act and Rule 158, provided that (i) such delivery requirements to the Company's security holders shall be deemed satisfied by the Company's compliance with its reporting requirements pursuant to the Exchange Act if such compliance satisfies the conditions of Rule 158 and (ii) such delivery requirements to the Placement Agent shall be deemed met by the Company if the related reports are available on the Commission's Electronic Data Gather, Analysis and Retrieval System ("EDGAR");

(e) if requested by the Placement Agent, to prepare a final term sheet relating to the offering of the Notes, containing only information that describes the final terms of the offering in a form consented to by the Placement Agent;

(f) prior to the Closing Date, to issue no press release or other communication directly or indirectly and hold no press conferences with respect to the Company or any of its subsidiaries, the financial condition, results of operations, business, properties, assets, or liabilities of the Company or any of its subsidiaries, or the offering of the Notes, without the prior consent of the Placement Agent which shall not be unreasonably withheld;

(g) not, at any time at or after the execution of this Agreement, to, directly or indirectly, offer or issue any Notes by means of any "prospectus" (within the meaning of the Act), or use any "prospectus" (within the meaning of the Act) in connection with the offer or issue of the Notes (other than as contemplated under the Registration Rights Agreement);

(h) not to, and to cause its subsidiaries not to, take, directly or indirectly, any action designed, or which will constitute, or has constituted, or might reasonably be expected to cause or result in the stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the Notes;

(i) to maintain a trustee and, if necessary under the jurisdiction of incorporation of the Company, a registrar for the Notes; and

(j) to use the proceeds from the issue of the Notes in accordance with the Use of Proceeds.

**5. Covenant to Pay Costs.** The Company agrees:

(a) if the transactions contemplated by this Agreement are consummated, to pay all costs, expenses, fees and taxes in connection with (i) the qualification of the Notes for offering and issue under state laws and the determination of their eligibility for investment under state law and the printing and furnishing of copies of any blue sky surveys or legal investment surveys to the Placement Agent and to dealers, any listing of the Notes on any securities exchange or qualification of the Notes for quotation on Nasdaq and any registration thereof under the Exchange Act, and any filing for review of the offering of the Notes by FINRA, (ii) the fees and disbursements of any transfer agent or registrar for the Notes, including the Trustee and (iii) the performance of the Company's other obligations hereunder, *provided* that, except as otherwise explicitly provided in this Agreement, the Placement Agent shall pay the costs and expenses incurred by it in connection with the offering of the Notes contemplated hereby. The expenses to be paid by the Company and reimbursed to the Placement Agent under this Section, together with Section A2 of the Engagement Agreement, shall not exceed \$125,000 (which amount, for the avoidance of doubt, is inclusive of, and not in addition to, the expense reimbursement contemplated by Section 1(e)(ii)) without the prior approval of the Company.

**6. Conditions of the Placement Agent's Obligations.** The obligations of the Placement Agent hereunder are subject to the accuracy of the representations and warranties herein and in the Purchase Agreement on the part of the Company on the date hereof, the performance by the Company of its obligations hereunder (except as would have a de minimis effect) and to the following additional conditions precedent:

(a) the Company shall furnish to you at the Closing Date (i) an opinion letter (which shall not include a negative assurance statement) of Pillsbury Winthrop Shaw Pittman LLP, counsel for the Company, in form reasonably acceptable to the Placement Agent and (ii) an opinion of Travers Thorp Alberga, Cayman counsel for the Company, in form reasonably acceptable to the Placement Agent, in each case, addressed to the Placement Agent, and dated the Closing Date, with executed copies for the Placement Agent.

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(b) The Company will, at the Closing Date, deliver to you a certificate of its duly authorized executive officer, dated as of the Closing Date in the form attached as Exhibit B hereto as well its duly authorized secretary, dated as of the Closing Date in the form attached as Exhibit C hereto.

(c) On or after the Applicable Time, there shall not have occurred any of the following: (A) a suspension or material limitation in trading in securities generally on the New York Stock Exchange or the Nasdaq Stock Market; (B) a suspension or material limitation in trading in the Company's securities on the Nasdaq Capital Market; (C) a general moratorium on commercial banking activities declared by any U.S. Federal or New York State authorities or United Kingdom authorities or a material disruption in commercial banking or securities settlement or clearance services in the United States or the United Kingdom; (D) the outbreak or escalation of hostilities involving the United States or the declaration by the United States of a national emergency or war or (E) the occurrence of any other calamity or crisis or any change in financial, political or economic conditions in the United States or elsewhere, if the effect of any such event specified in clause (D) or (E) in the Placement Agent's judgment makes it impracticable or inadvisable to proceed with the offering or the delivery of the Notes being delivered on the Closing Date on the terms and in the manner contemplated in the Purchase Agreement and this Agreement.

(i) Neither the Company nor any of its subsidiaries shall have (A) sustained since the date of the latest audited financial statements included in the Disclosure Materials any material loss or interference with its business from fire, explosion, flood or other calamity, whether or not covered by insurance, or from any labor dispute or court or governmental or regulatory action, order or decree, otherwise than as set forth or contemplated in the Disclosure Materials, or (B) entered into any transaction or agreement (whether or not in the ordinary course of business) that is material to the Company and its subsidiaries taken as a whole or incurred any liability or obligation, direct or contingent, that is material to the Company and its subsidiaries taken as a whole, in each case otherwise than as set forth or contemplated in the Disclosure Materials (other than the Placement); and (ii) since the respective dates as of which information is given in the Disclosure Materials there shall not have been any material change or effect, or any development involving a prospective change or effect, in or affecting (X) the business, general affairs, management, financial position, shareholders' equity or results of operations of the Company and its subsidiaries, taken as a whole, except as set forth or contemplated in the Disclosure Materials or (Y) the ability of the Company to perform its obligations under this Agreement, including the issuance and sale of the Notes, the effect of which, in any such case described in clause (i) or (ii), is in the Placement Agent's judgment so material and adverse as to make it impracticable or inadvisable to proceed with the offering or the delivery of the Notes being delivered on the Closing Date on the terms and in the manner contemplated in the Purchase Agreement.

(j) On or prior to the Closing Date, the Company shall have furnished to the Placement Agent such further certificates and documents as the Placement Agent may reasonably request.

**7. Effective Date of Agreement; Termination.** This Agreement shall become effective when the parties hereto have executed and delivered this Agreement.

This Agreement shall be subject to termination in the absolute discretion of the Placement Agent, by prompt written notice given to the Company, if (1) since the time of execution of this Agreement there has been any change or any development involving a prospective change in the business, properties, management, financial condition or results of operations of the Company and its subsidiaries taken as a whole, except as disclosed in Disclosure Materials, the effect of which change or development is, in the judgment of the Placement Agent, so material and adverse as to make it impracticable or inadvisable to proceed with the offering or the delivery of the Notes, (2) at any time since the execution of this Agreement (i) there shall have occurred a suspension or material limitation in trading in the securities of the Company on Nasdaq or trading in any securities generally on the New York Stock Exchange or Nasdaq shall have been suspended or materially limited or minimum prices shall have been established on such exchange or the Nasdaq Stock Market; (ii) a commercial banking moratorium shall have been declared either by U.S. federal or New York State authorities or a material disruption shall have occurred in commercial banking or securities settlement or clearance services in the United States; or (iii) there shall have occurred any outbreak or escalation of hostilities, declaration by the United States of a national emergency or war or other calamity or crisis the effect of which on financial markets is such as to make it, in the judgment of the Placement Agent, impractical or

inadvisable to proceed with the offering, sale or delivery of the Notes or (3) since the time of execution of this Agreement, there shall have occurred any downgrading, or any notice or announcement shall have been given or made of: (A) any intended or potential downgrading or (B) any watch, review or possible change that does not indicate an affirmation or improvement in the rating accorded any securities of or guaranteed by the Company or any subsidiary by any "nationally recognized statistical rating organization" registered under Section 15E of the Exchange Act. If the issue to the Purchasers of the Notes, as contemplated by the Purchase Agreement, is not carried out because any Purchaser or the Company, as the case may be, shall be unable to comply with any of the terms of the Purchase Agreement, the Placement Agent shall be under no obligation or liability to the Company under this Agreement (except to the extent provided in hereunder).

#### 8. Indemnity and Contribution.

(a) The Company agrees to (x) indemnify, defend and hold harmless the Placement Agent, its partners, directors, officers and members, any person who controls the Placement Agent within the meaning of Section 15 of the Act or Section 20 of the Exchange Act, and any "affiliate" (within the meaning of Rule 405 under the Act) of the Placement Agent, and the successors and assigns of all of the foregoing persons, from and against any loss, damage, expense, liability or claim (including the reasonable cost of investigation) which the Placement Agent or any such person may incur under the Act, the Exchange Act, the common law or otherwise, insofar as such loss, damage, expense, liability or claim arises out of or is based upon (i) any untrue statement or alleged untrue statement of a material fact contained in the Disclosure Materials (or in the Disclosure Materials as amended by the Company) or any omission or alleged omission to state a material fact required to be stated therein or necessary to make the statements therein not misleading, except insofar as any such loss, damage, expense, liability or claim arises out of or is based upon any untrue statement or alleged untrue statement of a material fact made in reliance upon and in conformity with any Placement Agent Information or arises out of or is based upon any omission or alleged omission to state a material fact in the Disclosure Materials in connection with the Placement Agent Information, which material fact was not contained in the Placement Agent Information and which material fact was required to be stated in such Disclosure Materials or was necessary to make such information not misleading or (ii) [Intentionally Omitted] and (y) indemnify and hold harmless the Placement Agent, its affiliates, directors and officers and each person, if any, who controls the Placement Agent within the meaning of Section 15 of the Act or Section 20 of the Exchange Act, from and against any and all other losses, damages, liabilities or claims (or actions in respect thereof) that otherwise arise out of or are based upon or asserted against the Placement Agent, its affiliates, directors and officers and each person, if any, who controls the Placement Agent within the meaning of Section 15 of the Act or Section 20 of the Exchange Act, as applicable, by any person, including stockholders of the Company, in connection with or as a result of your acting as the Placement Agent in connection with the Note Purchases or that arise in connection with any other matter referred to in this Agreement; provided however, that in no event shall the Company be obligated to indemnify and hold harmless the Placement Agent, its affiliates, directors and officers and each person, if any, who controls the Placement Agent within the meaning of Section 15 of the Act or Section 20 of the Exchange Act from such losses, damages, liabilities or claims (or actions in respect thereof) that arise from the bad faith, gross negligence, willful misconduct, illegal acts or of any breach of this Agreement by any such persons.

(b) The Placement Agent agrees to indemnify, defend and hold harmless the Company and its subsidiaries, each of their respective directors and officers, and any person who controls the Company within the meaning of Section 15 of the Act or Section 20 of the Exchange Act, and the successors and assigns of all of the foregoing persons, from and against any loss, damage, expense, liability or claim (including the reasonable cost of investigation) which, jointly or severally, the Company or any such person may incur under the Act, the Exchange Act, the common law or otherwise, insofar as such loss, damage, expense, liability or claim arises out of or is based upon (i) any untrue statement or alleged untrue statement of a material fact made in reliance upon and in conformity with any Placement Agent Information or any omission or alleged omission to state a material fact in the Disclosure Materials in connection with the Placement Agent Information, which material fact was not contained in the Placement Agent Information and which material fact was required to be stated in such Disclosure Materials or was necessary to make such information, in light of the circumstances under which they were made, not misleading or (ii) [Intentionally Omitted].

(c) If any action, suit or proceeding (each, a "Proceeding") is brought against a person (an "indemnified party") in respect of which indemnity may be sought against the Company or the Placement Agent (as applicable, the "indemnifying party") pursuant to subsection (a) or (b) respectively, of this Section 8, such indemnified party shall promptly notify such indemnifying party in writing of the institution of such Proceeding and such indemnifying party shall be entitled to assume the defense of such Proceeding, including the employment of counsel reasonably satisfactory to such indemnified party and payment of all fees and expenses; provided, however, that the omission to so notify such indemnifying party shall not relieve such indemnifying party from any liability which such indemnifying party may have to any indemnified party or otherwise unless and to the extent the indemnifying party did not otherwise learn of such Proceeding and such failure results in the forfeiture by the indemnifying party of substantive rights and defenses as determined by a final non-appealable judicial determination. The indemnified party or parties shall have the right to employ its or their own counsel in any such case, but all reasonable and documented fees and out of pocket expenses of such counsel shall be at the expense of such indemnified party or parties unless the employment of such counsel shall have been authorized in writing by the indemnifying party in connection with the defense of such Proceeding or the indemnifying party shall not have, within a reasonable period of time in light of the circumstances, employed counsel to defend such Proceeding or such indemnified party or parties shall have reasonably concluded that there may be defenses available to it or them which are different from, additional to or in conflict with those available to such indemnifying party (in which case such indemnifying party shall not have the right to direct the defense of such Proceeding on behalf of the indemnified party or parties), in any of which events such fees and expenses shall be borne by such indemnifying party and paid as incurred (it being understood, however, that such indemnifying party shall not be liable for the expenses of more than one separate counsel (in addition to any local counsel), in any one Proceeding or series of related Proceedings in the same jurisdiction representing the indemnified parties who are parties to such Proceeding). The indemnifying party shall not be liable for any settlement of any Proceeding effected without its written consent but, if settled with its written consent such indemnifying party agrees to indemnify and hold harmless the indemnified party or parties from and against any loss or liability by reason of such settlement. No indemnifying party shall, without the prior written consent of the indemnified party, effect any settlement of any pending or threatened Proceeding in respect of which any indemnified party is or could have been a party and indemnity could have been sought hereunder by such indemnified party, unless such settlement includes an unconditional release of such indemnified party from all liability on claims that are the subject matter of such Proceeding and does not include an admission of fault or culpability or a failure to act by or on behalf of such indemnified party.

(d) If the indemnification provided for in this Section 8 is unavailable to an indemnified party under subsections (a) or (b) of this Section 8 or insufficient to hold an indemnified party harmless in respect of any losses, damages, expenses, liabilities or claims referred to therein, then each applicable indemnifying party shall contribute to the amount paid or payable by such indemnified party as a result of such losses, damages, expenses, liabilities or claims (i) in such proportion as is appropriate to reflect the relative benefits received by the indemnifying party on the one hand and the indemnified party on the other hand from the offering of the Notes or (ii) if the allocation provided by clause (i) above is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) above but also the relative fault of the indemnifying party on the one hand and of the indemnified party on the other in connection with the statements or omissions which resulted in such losses, damages, expenses, liabilities or claims, as well as any other relevant equitable considerations. The relative benefits received by the Company on the one hand and the Placement Agent on the other shall be deemed to be in the same respective proportions as the total proceeds from the offering (net of the placement fee but before deducting expenses) received by the Company and the placement fee received by the Placement Agent, bear to the aggregate public offering price of the Notes. The relative fault of the Company on the one hand and of the Placement Agent on the other shall be determined by reference to, among other things, whether the untrue statement or alleged untrue statement of a material fact or omission or alleged omission relates to information supplied by the Company or by the Placement Agent and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. The amount paid or payable by a party as a result of the losses, damages, expenses, liabilities and claims referred to in this subsection shall be deemed to include any legal or other fees or

(e) The Company and the Placement Agent agree that it would not be just and equitable if contribution pursuant to this Section 8 were determined by pro rata allocation or by any other method of allocation that does not take account of the equitable considerations referred to in subsection (d) above. Notwithstanding the provisions of this Section 8, the Placement Agent shall not be required to contribute any amount in excess of the amount by which the total placement fee received by the Placement Agent exceeds the amount of any damages that the Placement Agent has otherwise been required to pay by reason of (i) such untrue statement or alleged untrue statement or omission or alleged omission or (ii) such loss, damage, expense, liability or claim (or action in respect thereof). No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation.

(f) The indemnity and contribution agreements contained in this Section 8 and the covenants, warranties and representations of the Company contained in this Agreement shall remain in full force and effect regardless of any investigation made by or on behalf of the Placement Agent, its partners, directors, officers or members or any person (including each partner, officer, director or member of such person) who controls the Placement Agent within the meaning of Section 15 of the Act or Section 20 of the Exchange Act, or by or on behalf of the Company, its directors or officers or any person who controls the Company within the meaning of Section 15 of the Act or Section 20 of the Exchange Act, and shall survive any termination of this Agreement or the issuance and delivery of Notes. The Company and the Placement Agent agree promptly to notify each other of the commencement of any Proceeding against it and, in the case of the Company, against any of its officers or directors in connection with the issuance of the Notes, or in connection with the Disclosure Materials.

9. *Information Furnished by the Placement Agent.* The name of the Placement Agent constitutes the only information furnished by or on behalf of the Placement Agent as "Placement Agent Information."

10. *Notices.* All communications hereunder will be in writing and effective only on receipt, and:

a. if to the Placement Agent, shall be sent by hand delivery, mail, overnight courier or facsimile transmission to:

The Benchmark Company, LLC  
150 East 58th Street, 17th Floor  
New York, NY 10155  
Attn: Michael Jacobs  
Email: michael.jacobs@stonex.com

*With a copy to:*

Sheppard, Mullin, Richter & Hampton LLP  
30 Rockefeller Plaza, 39<sup>th</sup> Floor  
New York, New York 10112  
Attention: Richard A. Friedman and Stephen A. Cohen  
Email: rafriedman@sheppard.com and scohen@sheppard.com

b. if to the Company, shall be sent by mail, telex, overnight courier or facsimile transmission to:

Gorilla Technology Group Inc.  
64 North Row  
London, United Kingdom W1K 7DA  
Attention: CEO

*With a copy to:*

Pillsbury Winthrop Shaw Pittman LLP  
31 West 52<sup>nd</sup> Street  
New York, NY 10019-6131  
Attention: Stephen C. Ashley  
Email: stephen.ashley@pillsburylaw.com

11. *Entire Agreement; Governing Law; Construction.* This Agreement constitutes the entire agreement of the parties to this Agreement and supersedes all prior written or oral and all contemporaneous oral agreements, understandings and negotiations with respect to the subject matter hereof. Notwithstanding anything herein to the contrary, the Engagement Agreement between the Company and the Placement Agent, shall continue to be effective and the terms therein shall continue to survive and be enforceable by the Placement Agent in accordance with its terms, including, without limitation, Section A therein with respect to future offerings. This Agreement and any transaction contemplated by this Agreement and any claim, controversy or dispute arising under or related to this Agreement shall be governed by and construed in accordance with the laws of the State of New York without regard to conflict of laws principles that would result in the application of any other law than the laws of the State of New York (other than Section 5-1401 of the General Obligations Law). The section headings in this Agreement have been inserted as a matter of convenience of reference and are not a part of this Agreement.

12. *Submission to Jurisdiction.* The Company and the Placement Agent agree that any suit, action or proceeding arising out of or based upon this Agreement or the transactions contemplated hereby may be instituted in any State or U.S. federal court in The City of New York and County of New York, and waives any objection that such party may now or hereafter have to the laying of venue of any such proceeding, and irrevocably submits to the exclusive jurisdiction of such courts in any suit, action or proceeding. The Company irrevocably appointed CT Corporation System 28 Liberty Street New York, NY 10005, as its authorized agent in the United States, upon which process may be served in any suit or proceeding arising from the transactions contemplated hereby, and agrees that service of process upon such agent, and written notice of said service to the Company by the person serving the same to the address provided in Section 13, shall be deemed in every respect effective service of process upon the Company in any such suit or proceeding. The Company further agrees to undertake commercially reasonable efforts as may be necessary to maintain such designation and appointment of such agent in full force and effect for a period of seven years from the date of this Agreement.

13. *Parties at Interest.* This Agreement shall inure to the benefit of and be binding upon the Placement Agent, the Company, and their respective successors. This

Agreement and the terms and provisions hereof are for the sole benefit of only those persons, except that the representations, warranties, indemnities and agreements of the Company contained in this Agreement shall also be deemed to be for the benefit of affiliates, directors, officers and employees of the Placement Agent and each person or persons, if any, controlling any Placement Agent within the meaning of Section 15 of the Act or Section 20 of the Exchange Act. Nothing in this Agreement is intended or shall be construed to give any person, other than the persons referred to in this Section, any legal or equitable right, remedy or claim under or in respect of this Agreement or any provision contained herein.

14. *No Fiduciary Relationship.* The Company acknowledges and agrees that in connection with this offering, or any other services the Placement Agent may be deemed to be providing hereunder, notwithstanding any preexisting relationship, advisory or otherwise, between the parties or any oral representations or assurances previously or subsequently made by the Placement Agent: (a) no fiduciary or agency relationship exists between the Company and any other person, on the one hand, and the Placement Agent, on the other hand; (b) the Placement Agent is not acting as advisors, expert or otherwise, to the Company, including, without limitation, with respect to the Placement, and such relationship between the Company, on the one hand, and the Placement Agent, on the other hand, is entirely and solely commercial, based on arms-length negotiations; (c) any duties and obligations that the Placement Agent may have to the Company shall be limited to those duties and obligations specifically stated herein; (d) the Placement Agent and their respective affiliates may have interests that differ from those of the Company; and (e) the Company has consulted its own legal and financial advisors to the extent it deemed appropriate. The Company hereby waives any claims that the Company may have against the Placement Agent with respect to any breach of fiduciary duty in connection with the Placement.

15. *Counterparts.* This Agreement may be executed in one or more counterparts and, if executed in more than one counterpart, the executed counterparts shall each be deemed to be an original but all such counterparts shall together constitute one and the same instrument. Delivery of an executed Agreement by one party to any other party may be made by facsimile, electronic mail (including any electronic signature complying with the New York Electronic Signatures and Records Act (N.Y. State Tech. §§ 301-309), as amended from time to time, or other applicable law) or other transmission method, and the parties hereto agree that any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

16. *Successors and Assigns.* This Agreement shall be binding upon the Placement Agent and the Company and their successors and assigns and any successor or assign of any substantial portion of the Company's and the Placement Agent's respective businesses and/or assets.

17. *Waiver of Immunities.* To the extent that the Company or any of its properties, assets or revenues may have or may hereafter become entitled to, or have attributed to it, any right of immunity, on the grounds of sovereignty, from any legal action, suit or proceeding, from set-off or counterclaim, from the jurisdiction of any court, from service of process, from attachment upon or prior to judgment, or from attachment in aid of execution of judgment, or from execution of judgment, or other legal process or proceeding for the giving of any relief or for the enforcement of any judgment, in any jurisdiction in which proceedings may at any time be commenced, with respect to their obligations, liabilities or any other matter under or arising out of or in connection with this Agreement, the Company hereby irrevocably and unconditionally, to the extent permitted by applicable law, waives and agrees not to plead or claim any such immunity and consents to such relief and enforcement.

18. *Foreign Taxes.* All payments by the Company to the Placement Agent hereunder shall be made free and clear of, and without deduction or withholding for or on account of, any and all present and future income, stamp or other taxes, levies, imposts, duties, charges, fees, deductions or withholdings, now or hereinafter imposed, levied, collected, withheld or assessed by any jurisdiction in which the Company is organized, resident, doing business or has an office from which payment is made or deemed to be made, excluding (i) any such tax imposed by reason of the Placement Agent having some connection with the taxing jurisdiction other than its participation as the Placement Agent hereunder and (ii) any income or franchise tax on the overall net income of the Placement Agent imposed by the United States, by the State of New York or any other state thereof, or the District of Columbia, or any political subdivision or territory of the United States, of any state thereof, of the District of Columbia or of the State of New York (all such non-excluded taxes, "Foreign Taxes"). If the Company is prevented by operation of law or otherwise from paying, causing to be paid or remitting that portion of amounts payable hereunder represented by Foreign Taxes withheld or deducted, then amounts payable under this Agreement shall, to the extent permitted by law, be increased to such amount as is necessary to yield and remit to the Placement Agent an amount which, after deduction of all Foreign Taxes (including all Foreign Taxes payable on such increased payments) equals the amount that would have been payable if no Foreign Taxes applied.

19. *Judgment Currency.* The obligation of the Company pursuant to this Agreement in respect of any sum due to the Placement Agent shall, notwithstanding any judgment in a currency other than United States dollars, not be discharged until the first business day, following receipt by the Placement Agent of any sum adjudged to be so due in such other currency, on which (and only to the extent that) the Placement Agent may in accordance with normal banking procedures purchase United States dollars with such other currency; if the United States dollars so purchased are less than the sum originally due to the Placement Agent hereunder, the Company agrees, as a separate obligation and notwithstanding any such judgment, to indemnify the Placement Agent against such loss. If the United States dollars so purchased are greater than the sum originally due to the Placement Agent hereunder, the Placement Agent agrees to pay to the Company an amount equal to the excess of the dollars so purchased over the sum originally due to the Placement Agent hereunder.

20. *VAT.*

(a) All sums payable by the Company pursuant to this Agreement are exclusive of any value added tax ("VAT"). Accordingly, if any payment by the Company pursuant to this Agreement constitutes the consideration for a taxable supply for VAT purposes, then, in addition to that payment, the Company shall pay an amount equal to any VAT chargeable on such supply subject, where applicable, to the receipt of a valid VAT invoice by the Company.

(b) Where under the terms of this Agreement the Company is liable to pay, indemnify or reimburse the Placement Agent in respect of any costs, charges or expenses, the payment shall include an amount equal to any VAT thereon not recoverable by the Placement Agent or any group of which the Placement Agent is a member for VAT purposes.

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

22. *Representations and Warranties of the Placement Agent.* In connection with the proposed sale of the Notes, the Placement Agent hereby represents and warrants to the Company that:

(a) the Notes were offered to the Purchasers of the Notes under the Purchase Agreement, each of whom the Placement Agent had reasonable grounds to believe, and did believe, would qualify as a QIB, and the Placement Agent did not make any offer or sale of the Notes to any other Person;

(b) immediately prior to making the offer to each offeree, the Placement Agent had reasonable grounds to believe, and did believe, that each such offeree had such knowledge and experience in financial and business matters that it was capable of evaluating the merits and risks of the investment in the Notes;

(c) other than the 7.50% Senior Unsecured Convertible Notes due 2031 that were issued by the Company on June 5, 2026, the Placement Agent did not make any offer or sale of Notes by or for the Company that are of the same or of a similar class as the Notes during the six-month period immediately prior to the offer of the Notes;

(d) the Placement Agent did not offer the Notes by any form of general solicitation or general advertising (within the meaning of Rule 502(c) under the Act), including without limitation: (i) any advertisement, article, notice or other communication published in any newspaper, magazine or similar media or broadcast over television or radio, or (ii) any seminar or meeting whose attendees have been invited by any general solicitation or advertising; and

(e) neither the Placement Agent nor any of its officers, directors, general partners, managing members, or other “covered persons” (as defined in Rule 506(d)(1) of Regulation D under the Act) is subject to any “disqualifying event” described in Rule 506(d)(1)(i)–(viii) of Regulation D, other than an event as to which disclosure is not required under Rule 506(e), and the Placement Agent shall promptly notify the Company in writing if it becomes aware that this representation is no longer accurate.

As used in this Section 22, the terms “offer” and “sale” have the meanings given to such terms in Section 2 of the Act.

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

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If the foregoing correctly sets forth the understanding between the Company and the Placement Agent, please so indicate in the space provided below for that purpose, whereupon this Agreement and your acceptance shall constitute a binding agreement between the Company and the Placement Agent.

Very truly yours,

**Gorilla Technology Group Inc.**

By: /s/ Jayesh Chandan  
Name: Jayesh Chandan  
Title: Chief Executive Officer

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The foregoing Agreement is hereby confirmed and accepted as of the date first above written.

**The Benchmark Company, LLC**

By: /s/ John J. Borer  
Name: John J. Borer  
Title: Chief Executive Officer

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**EXHIBIT A**

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**EXHIBIT B**

**EXHIBIT C**

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## FORM OF LOCK-UP AGREEMENT

July \_\_, 2026

Gorilla Technology Group Inc.

Re: Securities Purchase Agreement, dated July \_\_, 2026 (the "Purchase Agreement"), by and among Gorilla Technology Group Inc. (the "Company") and the purchasers signatory thereto (each, a "Purchaser" and, collectively, the "Purchasers")

Ladies and Gentlemen:

The undersigned irrevocably agrees with the Company that, from the date hereof until the earlier of (i) 90 days following the date on which the Registration Statement (as defined in that certain Registration Rights Agreement, dated as of the date hereof, by and among the Company and the Purchasers) has been declared effective and (ii) the date on which all the Notes (as defined in the Purchase Agreement) have been fully repaid and/or converted into the Ordinary Shares (as defined in the Purchase Agreement) (such period, the "Restriction Period"), the undersigned will not offer, sell, contract to sell, hypothecate, pledge or otherwise dispose of (or enter into any transaction which is designed to, or might reasonably be expected to, result in the disposition (whether by actual disposition or effective economic disposition due to cash settlement or otherwise) by the undersigned or any Affiliate (as defined in the Purchase Agreement) of the undersigned who the undersigned controls, directly or indirectly, or establish or increase a put equivalent position or liquidate or decrease a call equivalent position within the meaning of Section 16 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), with respect to, any Ordinary Shares of the Company or securities convertible, exchangeable or exercisable into, Ordinary Shares of the Company beneficially owned, held or hereafter acquired by the undersigned (the "Securities"). Beneficial ownership shall be calculated in accordance with Section 13(d) of the Exchange Act. In order to enforce this covenant, the Company shall impose stop-transfer instructions preventing the transfer agent of the Company from effecting any actions in violation of this letter agreement; provided that such stop-transfer instructions shall be promptly removed upon the expiration of the Restriction Period or upon the satisfaction of any applicable exception set forth herein. The undersigned agrees and consents to the entry of stop transfer instructions with the Company's transfer agent and registrar relating to the transfer of the undersigned's Securities except in compliance with the restrictions described above. A majority in interest of the Purchasers may consent to an early release from the Restriction Period if, in their sole and absolute discretion, the market for the Securities would not be adversely impacted by sales and in cases of financial hardship or other bona fide need of the undersigned.

Notwithstanding anything herein to the contrary, the first sentence of the preceding paragraph shall not apply to: (a) transfers of Securities (i) as a bona fide gift or gifts, (ii) by will, other testamentary document or intestate succession to the legal representative, heir, beneficiary or a member of the immediate family of the undersigned, (iii) to any trust, family limited partnership or other estate planning vehicle for the direct or indirect benefit of the undersigned or the immediate family of the undersigned, or (iv) by operation of law, such as pursuant to a qualified domestic order or as required by a divorce settlement, or pursuant to an order of a court or regulatory body of competent jurisdiction, provided that such Securities remain subject to the terms of this letter agreement; (b) transfers pursuant to a Rule 10b5-1 plan promulgated under the Exchange Act in effect as of the date hereof, or the establishment of a new Rule 10b5-1 plan during the Restriction Period so long as no sales or transfers of Securities occur under such plan during the Restriction Period; (c) if the undersigned is a corporation, limited liability company, partnership, trust or other entity, transfers to its stockholders, members, partners or trust beneficiaries as part of a distribution, or to any corporation, partnership or other entity that is its affiliate, provided that such Securities shall remain subject to the terms of this letter agreement; (d) transfers to the Company in connection with the "net" or "cashless" exercise of options or other rights to purchase Securities granted pursuant to an existing equity incentive plan, stock purchase plan or other arrangement of the Company in satisfaction of any tax withholding obligations through cashless surrender or otherwise, provided that any Securities issued upon exercise of such option or other rights shall remain subject to the terms of this letter agreement; (e) sales of Securities solely to generate proceeds necessary to satisfy personal income tax liabilities (including federal, state, local and foreign income taxes) of the undersigned arising directly from the vesting or settlement of restricted stock units or other equity-based awards granted to the undersigned by the Company pursuant to an existing equity incentive plan of the Company, provided that (i) the aggregate number of Securities sold pursuant to this clause (e) shall not exceed the number of Securities reasonably necessary to satisfy such tax liabilities, (ii) the undersigned shall provide the Company with reasonable advance written notice of any such intended sale, including the number of Securities to be sold, and (iii) any remaining Securities received upon such vesting or settlement shall remain subject to the terms of this letter agreement; (f) the pledge of Securities to a financial institution as collateral or security in connection with a bona fide loan transaction, the proceeds of which are used by the undersigned solely to satisfy personal income tax liabilities (including federal, state, local and foreign income taxes) of the undersigned arising directly from the vesting or settlement of restricted stock units or other equity-based awards granted to the undersigned by the Company pursuant to an existing equity incentive plan of the Company, or any enforcement of or foreclosure under such pledge, provided that (i) the aggregate amount of loan proceeds obtained pursuant to this clause (f) shall not exceed the amount reasonably necessary to satisfy such tax liabilities and (ii) the undersigned shall provide the Company with reasonable advance written notice of any such pledge, including the number of Securities to be pledged and the lender to whom such Securities are to be pledged; (g) the conversion of the outstanding preferred stock of the Company into Ordinary Shares, provided that such Ordinary Shares shall remain subject to the terms of this letter agreement; (h) pledges in a bona fide transaction that are in effect as of the date hereof to a lender to the undersigned, provided that such Securities shall remain subject to the terms of this letter agreement; and (i) transfers or dispositions of Securities required by applicable law, regulation or order of a court or regulatory body of competent jurisdiction.

The undersigned acknowledges that the execution, delivery and performance of this letter agreement is a material inducement to each Purchaser to perform under the Purchase Agreement and that each Purchaser (which shall be a third party beneficiary of this letter agreement) and the Company shall be entitled to specific performance of the undersigned's obligations hereunder. The undersigned hereby represents that the undersigned has the power and authority to execute, deliver and perform this letter agreement, that the undersigned has received adequate consideration therefor and that the undersigned will indirectly benefit from the closing of the transactions contemplated by the Purchase Agreement.

This letter agreement may not be amended or otherwise modified in any respect without the written consent of each of the Company, a majority in interest of the Purchasers and the undersigned. This letter agreement shall be construed and enforced in accordance with the laws of the State of New York without regard to the principles of conflict of laws. The undersigned hereby irrevocably submits to the exclusive jurisdiction of the United States District Court sitting in the Southern District of New York and the courts of the State of New York located in Manhattan, for the purposes of any suit, action or proceeding arising out of or relating to this letter agreement, and hereby waives, and agrees not to assert in any such suit, action or proceeding, any claim that (i) it is not personally subject to the jurisdiction of such court, (ii) the suit, action or proceeding is brought in an inconvenient forum, or (iii) the venue of the suit, action or proceeding is improper. The undersigned hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by receiving a copy thereof sent to the Company at the address in effect for notices to it under the Purchase Agreement and agrees that such service shall constitute good and sufficient service of process and notice thereof. The undersigned hereby waives any right to a trial by jury. Nothing contained herein shall be deemed to limit in any way any right to serve process in any manner permitted by law. The undersigned agrees and understands that this letter agreement is not intended to create any relationship between the undersigned and any Purchaser and that the Purchasers are not entitled to cast any votes on the matters herein contemplated and that no issuance or sale of the Securities is created or intended by virtue of this letter agreement.

This letter agreement shall be binding on successors and assigns of the undersigned with respect to the Securities and any such successor or assign shall enter into a similar agreement for the benefit of the Purchasers.

This letter agreement is intended for the benefit of the parties hereto and their respective successors and permitted assigns and is not for the benefit of, nor may any provisions hereof be enforced by, any other Person.

\*\*\* SIGNATURE PAGE FOLLOWS\*\*\*

This letter agreement may be executed in two or more counterparts, all of which when taken together may be considered one and the same agreement.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Position in Company, if any

\_\_\_\_\_  
Address for Notice:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Gorilla Technology Group Inc. Announces Pricing of \$125 Million Senior Unsecured Convertible Bond Offering to Commence NeutraDC Batam Project in Indonesia**

Gorilla Technology Group Inc. (NASDAQ: GRRR) (“Gorilla” or the “Company”), a global solution provider in Security Intelligence, Network Intelligence, Business Intelligence, IoT technology and data centers, today announced the pricing of \$125 million aggregate principal amount of 7.50% Senior Unsecured Convertible Notes, Series B due 2031 (the “Bonds”).

The Bonds are being sold in a private placement pursuant to Section 4(a)(2) of the Securities Act of 1933, as amended, to institutional investors, and the offering is expected to close on or about July 17, 2026, subject to customary closing conditions. Additional details regarding the private placement will be disclosed in a Form 6-K to be filed by the Company with the Securities and Exchange Commission.

When issued, the Bonds will be senior unsecured obligations of the Company, will be issued at 100% of their principal amount, will accrue interest payable semi-annually in arrears at a rate of 7.50% per annum, and will mature on June 15, 2031, unless earlier converted, redeemed or repurchased in accordance with their terms. Interest will be payable in cash or, at the Company’s election and subject to certain conditions, ordinary shares of the Company.

The initial conversion rate for the Bonds will be 39.2425 ordinary shares per \$1,000 principal amount of Bonds, which is equivalent to an initial conversion price of approximately \$25.4826 per ordinary share, and will be subject to adjustment upon the occurrence of certain events. The initial conversion price represents a conversion premium of approximately 52% over the closing price of \$16.77 per ordinary share of the Company on July 14, 2026. The conversion price is subject to two reset mechanisms: one, a downward reset with a floor of \$8.00 per ordinary share; the second, an upward reset with a cap of \$31.85325 per ordinary share, representing a premium of 90% per ordinary share over such closing price.

The Company intends to use the net proceeds from the offering to fund advance payments required to secure committed data center capacity and commence the equity portion of purchases of data center equipment for deployment pursuant to the Company’s NeutraDC Batam project in Indonesia, announced on June 23, 2026, with any remaining proceeds to be used for general corporate purposes.

The securities described above have not been registered under the Securities Act of 1933, as amended, and may not be offered or sold in the United States absent registration or an applicable exemption from registration requirements. The Company has agreed to file a resale registration statement on Form F-3 with the SEC to register the resale of the Bonds and the ordinary shares issuable upon conversion of the Bonds described above.

This press release does not constitute an offer to sell, or the solicitation of an offer to buy, any securities, nor shall there be any sale of securities in any state or jurisdiction in which such offer, solicitation or sale would be unlawful.

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**About Gorilla Technology Group Inc.**

Headquartered in London, U.K., Gorilla Technology Group Inc. (NASDAQ: GRRR) is a global solution provider in Security Intelligence, Network Intelligence, Business Intelligence, IoT technology and data centres. Gorilla provides a wide range of solutions, including Smart City, Network, Video, Security Convergence, IoT and AI infrastructure solutions across select verticals, including government & public services, manufacturing, telecom, retail, transportation & logistics, healthcare and education, using AI and deep learning technologies.

For more information, visit <https://www.gorilla-technology.com/>.

**Forward-Looking Statements**

This press release contains “forward-looking statements” within the meaning of the “safe harbor” provisions of the Private Securities Litigation Reform Act of 1995. Gorilla’s actual results may differ from its expectations, estimates and projections and, consequently, you should not rely on these forward-looking statements as predictions of future events. Words such as “expect,” “estimate,” “project,” “budget,” “forecast,” “anticipate,” “intend,” “plan,” “may,” “will,” “could,” “should,” “believes,” “predicts,” “potential,” “might” and “continues,” and similar expressions are intended to identify such forward-looking statements.

These forward-looking statements include, without limitation, statements regarding the completion of the offering, the expected timing of the closing of the offering, the intended use of proceeds from the offering, the terms of the Bonds, the Company’s ability to fund purchases of data center equipment and related business initiatives, and the potential benefits of such purchases, along with those other risks described under the heading “Risk Factors” in the Form 20-F Gorilla filed with the Securities and Exchange Commission (the “SEC”) on April 15, 2026 and those that are included in any of Gorilla’s future filings with the SEC.

These forward-looking statements involve significant risks and uncertainties that could cause actual results to differ materially from expected results. Most of these factors are outside of the control of Gorilla and are difficult to predict. Should one or more of these risks or uncertainties materialize, or should underlying assumptions prove incorrect, actual results may vary materially from those indicated or anticipated by such forward-looking statements.

Readers are cautioned not to place undue reliance upon any forward-looking statements, which speak only as of the date made. Gorilla undertakes no obligation to update forward-looking statements to reflect events or circumstances after the date they were made except as required by law or applicable regulation.

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